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THE NATION

JULY 22-29, 1978 60 cents

Peter Connolly
Proposition 13

THE VOICE OF RAW GREED

The Meaning of Bakke's 'Window'

JACK GREENBERG

FUEL OIL: THE RIP-OFF RUNAROUND

Fred J. Cook

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LETTERS

the Court on *Bakke*

New York City

Since my retirement from *The Nation*, there have been many issues and articles in the magazine that I happily applaud. But such is not the case with Ramsey Clark's comments on the *Bakke* decision [issue of July 8-15]. I have the highest regard for Ramsey Clark, both as a lawyer and as a person, and must assume that he wrote under pressure of time, and without the opportunity to study thoroughly the two decisions, and the many opinions handed down in this case.

While the goal of racial justice in higher education is not merely worthy but imperative, the methods used at Davis to achieve it are simply indefensible, and were justly condemned by the Court. The quota system practiced there (or any system of fixed quotas) is the moral equivalent of separate entrances for blacks and whites, and is redolent of the practices we condemn in South Africa. Such racial discrimination is a strange route indeed to take toward the goal of racial justice, and its predictable consequence is that race-conscious hospital administrators will be encouraged to treat black graduates of such a school as second-class doctors. The Court quite properly, it seems to me, held the quota system to be wrong.

The second decision held that consideration of race—among other considerations—was valid and constitutional, and specifically endorsed its practice at Harvard, among others. The goal of affirmative action programs was reaffirmed, and the door to just racial integration securely propped open—provided only that all must enter through the same door. The outcome is good and has been so hailed by Rauh of ADA, Hooks of the NAACP, as well as by Moynihan of benign neglect. As the product of a Court, seven of whose members are appointees of conservative Republican Presidents, it is a resolution for which we may all be grateful.

James J. Storrow jr.

Burger's ax

Watertown, N.Y.

With reference to Robert Sherrill's "Burger's Court Feathers Its Nest" [*The Nation*, June 24], the character and caliber of Chief Justice Warren Burger is mirrored in the following incident: In the early 1950s Warren Burger and I lived in St. Paul, Minn. He was then a lawyer and also taught at the Mitchell William College of Law. He was active in local and state Republican Party politics. At that time Sen. Joseph McCarthy and some members of the House Un-American Activities Committee (HUAC) were hurling wild and unsubstantiated charges that 7,000 Protestant ministers and many noted educators, scientists and writers were Communists or Communist dupes. . . .

At a conference held before 1953 in the theatre section of the St. Paul Municipal Auditorium, several clergymen and I expressed our critical views about the HUAC charges. At the close of the session, a tall and heavyset man hurriedly walked up to me and said heatedly in loud tones: "You and the other clergymen here are Communist dupes." The man was Warren Burger.

How come many clergymen—Protestant ministers, Roman Catholic priests and rabbis—could detect that the HUAC charges and McCarthy's accusations of communism against numerous individuals had no basis whatsoever in truth, and Warren Burger and other lawyers and politicians in St. Paul and Minneapolis could not or would not see the lies? The answer is very simple: they had no axes to grind. . . .

In 1953 Burger was rewarded by the new Republican administration in Washington: he became an assistant attorney general in charge of the civil division of the Department of Justice before rising to be judge of the U.S. Court of Appeals for the District of Columbia. As Robert Sherrill writes, Burger knows how to feather his nest.

Rabbi Morris Casriel Katz

Variations CALVIN TRILLIN

Lately, I have been forced to invoke the name of Marie Torre almost once a week. Marie Torre, in one of the landmark cases involving a reporter's right to protect a source, went to jail rather than reveal which studio executive had told her that Judy Garland was getting too fat. She is our John Peter Zenger, West Coast Division. While invoking her name, I have given assurances that I too would be willing to go to jail rather than reveal my source, although I would prefer a suspended sentence.

What I have been asked to reveal is where I found a quotation attributed to H.L. Mencken which appeared in this space several weeks ago in a column that also included quotations credited to William Henry Harrison and William Henry Harrison's Secretary of State (I can never remember his name). In the passage quoting Mencken's contemplations on what the first President from the Deep South would be like, there was something uncomfortably prescient about his description of a brother who would "gather his loutish companions on the porch of the White House to swill beer from the bottle and snigger over barnyard jokes about the darkies," a cousin on the Halleluyah circuit waving well-thumbed copies of pornographic magazines for the yokels to gasp at, and an incumbent who, having been cleansed of his bumpkin ways by hucksters of Henry Grady's New South, would "have a charm comparable to that of the leading undertaker of Dothan, Alabama."

A number of newspapers across the country simply reprinted the quotation. Some reporters enlisted the aid of Mencken scholars, none of whom have yet been able to find the quotation in Mencken's voluminous writings, even though they tend to think it sounds familiar—a lesson in the limitations of scholarly research. Inevitably, a few reporters considered the possibility that the quotation was a fake, despite assurances by the editor of this magazine that my column had been subjected to "*The Nation*'s normal checking process." When I told one of them, Theo Lippman, Jr. of the *Baltimore Sun*, that I had seen the quotation typed on a piece of paper rather than printed in a book or magazine, he asked if the piece of paper had been in a typewriter at the time. Such are the excesses of skepticism that respectable members of our trade have been driven to in this post-Watergate era.

It should be noted that nobody challenged the quotation on substantive grounds: No one claimed that Mencken, at his most hyperbolic Southerner-baiting, could not have predicted the Carters almost precisely. It should also be noted that all reporters involved were sympathetic toward my refusal to name the person who had passed the quotation on to me, as well as my refusal to answer any questions at all about attending, earlier in the spring, a dinner party at the Dakota apartments, on Central Park West, at which one of the other guests was Zbigniew Brzezinski.

I have no way of proving who might have leaked the leak that Brzezinski might have been the leaker. It is known, of course, that there has been tension between Brzezinski and the Georgians around Carter ever since

(Continued on page 70)

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EDITORIALS

SALT and the Pinpricks

Secretary of State Vance went to meet his Russian opposite number to talk about SALT at an odd, indeed awkward time. But he had to go, and he is right to insist that strategic arms limitation by the two great nuclear powers is the one unlinkable thing. Given that imperative, it is depressing to note that it has taken courage on his part and on the President's to persist on SALT in the face of Russia's pinprick provocation.

This country's cold warriors have been relatively discreet in their attempts to have the government break off the SALT talks because of Soviet harassment of American journalists in Moscow and the Shcharansky and Ginzburg trials, which might be called human-rights show trials. Our hawks know that polls show widespread popular support for checking the nuclear arms race, so they tend to behave carefully on this issue. But the reactionary pressures are there all the same—as shown by the July 10th statement of Senators Jackson's and Moynihan's Coalition for a Democratic Majority—and they aim to check the progress that has been made toward a new and very limited agreement about nuclear weapons.

The trial of the *New York Times* and *Baltimore Sun* correspondents in Moscow for "slander" of an institution (a broadcasting entity) will seem to Americans, quite correctly, as simply an advertisement for the backwardness of Soviet legality. The Ginzburg and Shcharansky cases are much more serious. The latter is being tried (if one can use that term about a *raison d'etat* case) for treason, which carries the death penalty. Beyond that, its provocative nature is underscored by the fact that President Carter has proclaimed that Shcharansky has had no connection with American espionage.

The Soviet prosecutors will produce a witness, one Lipavsky, who once shared quarters with Shcharansky and with whom the CIA was foolish enough to have relations. That contrived circumstance would give Soviet jurisprudence enough reason to hang Shcharansky, a civil rights activist who happens to be Jewish. The familiar stench of anti-Semitism hangs over the cases of Shcharansky and Ginzburg, adding to their unpleasantness.

Obviously, the "proof" of Shcharansky's guilt as a spy is designed to expose the American President as a liar, at least in the minds of those who can take the Soviet system of justice seriously. Therefore the President has sent a personal message to Brezhnev on this case and Secretary Vance surely stressed it to Gromyko at their meeting about SALT. Vance has also said that the two trials will "inevitably affect the climate of relations and impose obstacles to the building of cooperation." But he added, during that same press conference, that this country would persist in the SALT effort "because it is in our national interest and in the interest of world peace to do so."

There can be no doubt about the correctness of that view, except in the judgment of those who actively seek confrontation leading to conflict between the two superpowers. The existing situation is one of pinprickery, com-

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Notice to Our Readers

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pared to what the Soviet Union could do if it really wanted to face us down. Berlin could be reconverted into a powder keg. There could be plane incidents, naval incidents, Russian troops reinforcing the Cubans in Africa and any number of other provocations that would spring to the military mind if Moscow wanted really to revive the cold war.

They will not do any of those things because the Kremlin recognizes that the USSR, among others, benefits from the present state of relaxation, however uneasy. As for the proposed new SALT treaty, the most to be expected is that it will freeze the present nuclear balance at slightly higher levels and postpone for a while a whole new generation of weaponry. But however disgusting the "trials" in Moscow, the way to deal with them is not by abandoning the faint hopes contained in SALT.

The Informer Apparatus

The case against Anatole Shcharansky—insofar as the Kremlin cares about making a legal process out of this political show trial—depends on an informer. There is nothing surprising about that in the light of the rich, dark Russian tradition of police spying, infiltration and provocation which marked the authoritarian czarist state just as it does its Communist successor.

The case against the Socialist Workers Party in the United States, which the FBI was trying to make for many years, was also based on informers—an incredible 1,300 of them, as the government has been forced to admit. Despite an apparatus of infiltration and provocation that would have astonished the Czar's Okhrana or Stalin's NKVD in their heydays, the federal government never managed to make a case against the SWP, a small, peaceful Trotskyite group with a sturdy interest in the electoral process. And now in a radical switch in the informer business, the federal courts have declared the nation's chief law-enforcement officer in contempt for his refusal to hand over to the SWP's lawyers the files of just eighteen of that swarm of police spies which the FBI placed in the ranks of that perfectly legal party.

Should Atty. Gen. Griffin Bell be sent to jail if he continues to defy a court order requiring him to hand over the files of the eighteen informers? Yes, of course, on the principle that no one—and especially not the country's chief prosecutor—can be allowed to disobey the order of a court or to pick and choose between those he will or won't obey. Will the Attorney General, after the appeals process is done, actually go to jail? Of course not—Bell has said he would comply with the order if higher courts sustain the District Court's ruling on the informers. He is resisting the order for the purpose of testing to the legal limit the right of the government to do its police work with the aid of the breed of informers.

Informing for the police is a nasty if inevitable business. We are told that without such paid agents most crimes would go unpunished and that the police would be paralyzed in their enforcement of the law. Not long ago FBI Director Webster revealed that his agency currently employs 2,891 "informants," of whom 1,789 are engaged in general criminal investigations and 1,060 spy on "organized crime." He declares that a mere forty-two are now used for the dirty work of "domestic security." The Secret Service is so discouraged by the shortage of political informers that it has recommended to the White House that the President not visit several cities, or so its chief told a Senate committee last year.

We lived for a long time with the comfortable illusion that the Constitution protected us as citizens against unrestrained police actions. The fragility of those protections was made clear after the death of J. Edgar Hoover and by the post-Watergate revelations. The atmosphere was one of reform and the air was filled with never-again promises. In January the President issued his Executive Order to the intelligence agencies, the one that famously banned assassination as a permissible device. As we and others noted at the time, an Executive Order offers no real protection since it can be changed or rescinded as easily as it was issued. And, as Morton Halperin of the Center for National Security Studies has commented, Carter's order "contains the most explicit and far-reaching claim of an inherent Presidential right to intrude without a warrant into areas protected by the Fourth Amendment ever stated publicly by an American President."

Congress has been working up a law to replace that order but, in its present form, it is the opposite of reassuring. "The bill broadly authorizes covert operations, paramilitary operations and intrusive investigations of American citizens," says the ACLU's legislative counsel, and it "takes away the 'inherent power' of the President to do those things, but then gives him the express power to do them, with all the flexibility he had before." It is a "reform" that makes the abuse of power worse by institutionalizing it.

All of this, including the Attorney General's all-out defense of political informers, was predictable in a period when the cold war is once again congealing. As a nation we have learned very little from the thoroughly exposed excesses committed in the name of "national security." Our elected officials toy with our liberties as they pretend to protect us from enemies within and those beyond our shores. All the more reason to increase our vigilance toward those who would increase the unchecked powers of police and spies, those ancient threats to freedom.

Escape to Hope

In a terrible way tortured Lebanon represents the whole problem of the Middle East: religious communities at each other's throats; strategic interests of outside powers preventing accommodations for a nation's sake; short-term considerations blocking any chance for peace in the longer range. The situation could hardly be grimmer as Syrian artillery and rockets smash the Christian enclaves in Beirut, while Israeli warplanes, "buzzing" Beirut, try to make the Syrians lay off the right-wing Christian militias.

On the Arab-Israeli front, so to speak, diplomacy too is in a grim stage. Eight months after Sadat's visit to Jerusalem the Foreign Ministers of Israel and Egypt

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reluctantly sit down together in London, forced to meet by outside (mainly American) pressures. The hope of progress is slight, given the Egyptian proposal for a "peace" and its rejection on July 9 by the Israeli Cabinet. Sadat tightens the authoritarian screws in Cairo; Begin would be displaced in Jerusalem if his potential successors dared to take his hot spot.

Buried away in the discouraging present is a long-range hope that is a little more than fantasy. The hope is for the abandonment of the feudal-confessional politics that beset the Middle East. Lebanon could even lead the way, given a miracle or two (of the secular kind). If that notion seems fantastic while Moslems and Christians (of both Left and Right) kill each other once again, and while Israelis bolster Christian extremists in the south to keep the Moslems from their borders, we might recall that just two years ago Lebanese leftists occupied 80 percent of the land and were on the verge of disarming the Christian militias—which is why the (conservative) Syrians moved in, with Israel's approval.

If only Sadat would stop acting like a Pharaoh and if Hussein would put off his crown and become a President and if Palestinians could vote in a secular state . . . then some of the problems would go away. If all this is pure fantasy, one is driven toward it by the talks that forever break off and the politics of murder in Lebanon.

Muhammad Ali for Congress

The extraordinary publicity that Muhammad Ali's twelve-day visit to the Soviet Union generated in the American and world press was to be expected. Worldwide, Ali is one of the best-known Americans of his time. Being warmly greeted by Brezhnev and given a thirty-minute interview merely emphasized the importance the Soviets attached to his visit. Ali was obviously not being kissed and embraced because of his achievements as a prizefighter. He had been named, he said, by Brezhnev as an unofficial ambassador for peace with the United States.

If that was Brezhnev's intention, he picked a good ambassador but, by the same token, Ali was an excellent unofficial ambassador from this country to the Soviet Union. He was tactful and shrewd and set an example other famous American visitors might well follow. A Moslem, he worshiped alongside Russian Moslems in Tashkent and Samarkand. He had come to the Soviet Union, he said, to meet the people of a great country, to learn how they live, and what they think. He had pleasant things to say about aspects of Soviet society. "They give a man free medical and hospital care, low rent and a job. . . . I didn't see no hustlers, no prostitutes. . . . I haven't saw one person hitchhiking, one person begging or in bad, bad poverty, and I never felt so free of being robbed." On returning to the States, he said: "I don't feel no fear at all because now I've got the pulse of the people as peaceful and loving as any in the world." Brezhnev he found to be "as cute as he can be . . . a quiet, meek gentleman." He made it a point, as became an unofficial visitor, to show "the proper humility."

Ali was polite, but totally credulous and uncritical he was not. "I've never been used, not used here, not used nowhere." The Russians, he grimaced, had a tendency to be very serious: "I didn't see nobody laughin' or jokin'. Everybody was serious." He didn't like the absence of ice and a coffee shop downstairs in his hotel, with those "big juicy cheeseburgers," and he said so. "I'm not a politician," he conceded, "but if this is a show to deceive me they're putting on a great show nationwide." He might be getting into trouble, he reflected, talking as he did, "but I have to tell the truth." His patriotism, however, was impeccable. "I love my country. I think it's the best in the world. I don't want to live in any country but America. . . . I also love the truth." The head of the DAR could hardly ask for a more emphatic affirmation. But how rare it is these days to hear an American visitor to the Soviet Union say anything favorable about Russian society and its people; how rare and how refreshing. Soviet denial of human rights is the obsessive, constant, ritualistic response of all visitors to all queries. It took a prizefighter to sound a more civilized, a more tactful, a more pacific tone. Yet one may be sure Ali was not deceived or oversold; he is natively very shrewd.

But while we could use a few more unofficial ambassadors for peace, whether selected by Brezhnev or Carter, Ali's visit suggests that he might play a different role to great advantage. Why doesn't he run for Congress? There are districts in a dozen states where he would be a shoo-in and he need not run this year. At 36, his fighting career is about over. Then what will he do? He is not a man who would be content with being a celebrity; he would soon be bored with a career as a media personality; nor is business his dish. One gets a feeling that he would like to be socially useful, but the philanthropic route is not for him nor is the "cause" world. So why not Congress? The able and experienced members of the Black Caucus, while they might be a bit envious of his fame, could teach him the routines quickly enough. Everything he said and did, at least for quite a time, would be news, not merely here but internationally. He is a Moslem and it is time that Congress had a member of that faith. And in Congress, Ali could be a full-time "ambassador of peace" in the best sense of the term. He could also be a notably effective spokesman, not merely for blacks but for other groups that need strong voices in the Congress.

In the past, blacks have been a bit dubious about the co-opting of their celebrities for political roles; it seemed condescending and was resented, in particular by black intellectuals. Celebrities are a dime a dozen in this celebrity culture, as Studs Terkel pointed out in these pages ("The Cult of the Celebrity," February 23, 1974), but Ali is more than a celebrity. He is a man of character and charm. His stand on the draft alone stamped him as a person who has the courage of his convictions. His generosity in coming to the assistance of a Jewish home for the aged in New York is another mark of his quality. Put him down as a person of remarkable native gifts: intelligence, perception and good will.

His would not be the case of a celebrity seeking to carve out a career in politics on the basis of wide recognition. Bill Bradley is doing that and, incidentally, may well become a useful figure if elected to the Senate from New Jersey. But Ali is a special case. Given his limited educational background, many roles that might be open

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to other professional athletes on retirement would not be open to him, but politics would seem to be his natural milieu. He has the ego for it; he radiates good will and genuinely likes people. Over the years, he has made comments about race and racism that show real insight. He is more than a spokesman for blacks; he is not exclusively centered in the black world. He has a wide range of interests, knows how to communicate with whites—his native sense of fact is quite remarkable given his background—and whatever he had to say about racial issues would command a very large audience. Again and again, he has demonstrated almost perfect pitch and his sense of timing is excellent. In his own way, he is religious. As another boxer, Joe Louis, has said of him: "He makes his people feel proud, and I love him for it." He has also set them a good example in terms of sobriety, self-pride, self-discipline and native courtesy and tact. At the same time he is anything but a "Tom."

After all, what does an ex-world champion do once he retires? Open a restaurant, as Jack Dempsey did? Or throw his money around as Joe Louis did? As Christopher Lehmann-Haupt pointed out in a review of Louis's autobiography, it would be difficult for some future historian of American culture to look back on Louis's career and distinguish it from that of a black man in the pre-Civil War period who had achieved his hour of glorious rebellion and then been "caught by hounds and unmanned and mounted on exhibition for the curious to behold." Whatever he does, Ali is not likely to end his career that way, but retirement from the ring could pose severe problems. Ambrose Bierce once defined "famous" as being "conspicuously miserable." Ali cannot avoid being famous and therefore conspicuous but he need not be miserable. Not, that is, if he takes this advice and seeks to round out his career with as many years in Congress as he has spent in the ring. But he will probably ignore it, for it was also Bierce who defined "advice" as "the smallest current coin."

CAREY MCWILLIAMS

VARIATIONS *(Continued from page 66)*

he was mentioned by Hamilton Jordan in a pre-inauguration interview with *Playboy* magazine, the Presidential archives of the Carter administration. "If after the inauguration you find a Cy Vance as Secretary of State and Zbigniew Brzezinski as head of National Security, then I would say we've failed," Jordan said to the *Playboy* interviewer (who, as far as we know, was fully clothed), "And I'd quit. But that's not going to happen." When both Vance and Brzezinski were appointed, it was widely thought that Jordan's statement had been yet another example of those statements by Presidential aides, at once arrogant and dead wrong, that prove what scholars call The Haldeman Rule: "No nation has ever been wisely governed by advance men." As it turned out, though, Jordan had been prophetic: they have a Vance and Brzezinski, and, by the account of virtually all foreign policy analysts, they have failed. (Jordan has not quit, but nobody's predictions are perfect.) I have been informed that the problem between Brzezinski and the Georgians goes deeper than the *Playboy* quote. Apparently, during National Security Council meetings that take place before nine in the morning, the sight of one of Carter's Boys drinking a Coke with goobers in it causes Brzezinski to flash what some interpret as a condescending smile. It was not Mencken, I believe, but Ambrose Bierce who wrote, "Only a Southerner could be made to feel socially inadequate in the presence of a Pole."

I have decided, however, that it would not be a betrayal of Zbigniew Brzezinski, John Peter Zenger or Marie Torre to admit a mistake made in the column in question. The quotation credited to William Henry Harrison ("Anybody who is not objectionable about his daughter is a pervert") may have actually been said by Franklin Pierce. That, at least, is what I have been led to believe by a particularly zealous Piercist of my acquaintance. The undiplomatic quotation attributed to William Henry Harrison's Secretary of State ("If there were inferior races, the Arabs would be one of them") has not been questioned. My only regret is that I can't remember his name. □

Indian Rights: The Cost of Justice

Petra Shattuck & Jill Norgren

Six months ago 200 Native Americans began the "longest walk" across the country, from Alcatraz to Washington, D.C. They arrived in the capital on July 15. It has been for them a walk of remembrance as well as one of protest—remembrance of a bitter past when Indian tribes were "removed" from their native lands and force-marched across the country to arid and inhospitable territories then of no use to white progress. Many times Indian men, women and children were driven along the "trails of tears" that stretched from Georgia to Oklahoma, from New York to Wisconsin, from the Mississippi to the Pacific.

And it has been a walk of protest over legislation now before Congress which is so destructive of Indian interests that it threatens the future existence of Native Americans as a distinct culture and in a polity of their

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own. These bills would terminate all treaties between the United States and Indian tribes (H.R. 9054), cancel Indian hunting and fishing rights on and off reservations (HJR 1 and HJR 206), limit Indian water rights (H.R. 9051) and abrogate Indian aboriginal title to land (S. 842, H.R. 9906 and H.R. 4169), restrict tribal sovereignty (H.R. 9950) and terminate the federal trust relationship with Indian tribes (H.R. 9054). What is most disturbing about this legislation is not that it will soon be enacted—hardly anybody in Washington thinks its passage likely this term—but that the cavalier disregard for Indian rights reflected in these bills mirrors quite accurately the growing backlash to steps taken by Native Americans to assert long-ignored rights and treaty promises. By mobilizing now against the rise of anti-Indian sentiments in Congress and in the country, the Indians hope to break a pattern of public policy which has long been guided not by concern for the welfare of Native Americans but solely by the interests of the non-Indian economy and society.

The current mood of anger and resentment has arisen because it may no longer be possible to assume that non-Indian interests must prevail in any formulation of state and federal Indian policy. The historic deference to white interests has been undermined by a series of Indian lawsuits that have affirmed treaty rights, validated Indian claims to land and other economic resources, and demanded protection of traditionally disregarded civil rights. Legal victories have established that Indian rights and interests must be honored, even when the exercise of these rights imposes burdens and costs on the rest of society. Long-delayed justice for Indians, it is said, must mean injustice to innocent non-Indians, or, as Maine's Attorney General and gubernatorial candidate, Joseph Brennan, presents it: "two wrongs don't make a right!"

The fact that a legal vindication of Indian land claims may be unfair to non-Indians is a proper cause for concern, although Indians may be left to wonder why discussion of their cases concentrates almost exclusively on the real or imagined hardships in store for non-Indians. It is this one-sided approach and its corollary disregard for the longstanding and very real economic and social plight of Native Americans that has been used to justify the distorted and punitive anti-Indian-rights legislation now before Congress. Here, again, Indians may wonder why Congressional concern for large and small property owners threatened by Indian lawsuits is unmatched by concern, for example, for the thousands of "innocent" Americans dislodged from their homes by highway or airport construction. By placing the burden of perceived injustice squarely on the shoulders of the Indian plaintiff, Congressional and public debate also obscures the fact that most current Indian litigation is not addressed to land claims but is concerned with the protection of other Indian rights and liberties. Lawsuits to stop discrimination against Indians in voting, schooling, employment and housing continue to be filed, thus indicating the pervasiveness of the Indian's perpetual inequality. Acknowledging the urgent need for reform of the principle and practice of federal Indian policy, Congress in 1975 established the American Indian Policy Review Commission (AIPRC) to "present recommendations to improve the condition of American Indians." To date Congress has not, however, implemented any of the major recommendations of the commission's fifteen-volume *Final Report*, because much of the momentum in favor of Indian reform has been lost as anti-Indian feelings have intensified.

For Indians and their lawyers the hostile political reaction to their lawsuits is a sad irony. The very success of their legal action seemed to confirm the wisdom of the decision to rely, finally, on legal remedies. Other remedies, as Judge Port noted in his Oneida land claims decision, had patiently been sought "to no avail." If the backlash to Indian legal victories should leave the Indians worse off than before, litigation begun so auspiciously will look like the work of a sorcerer's attorney, one whose legal magic has unleashed an uncontrollable torrent of disaster. For Native Americans the message that their legal action was too successful to be tolerable by the non-Indian majority would once again confirm their historic experience that the white man's law is but a tool of control and not, as promised, a reservoir of rights to which even politically powerless minorities are entitled.

While such a lesson of *might makes right* would hardly be new to the American Indian, denial to the Indians of the fruits of their legal victories raises questions which go far beyond the concerns of Indian litigation. They concern both the viability of the American constitutional system and the future meaning of equality in this country. The fact that this successful litigation triggered so fierce a negative reaction provokes doubts about relying on law to protect the rights of any individuals or groups too powerless to defend themselves in the political arena. In the past, courts, particularly federal courts, have been forums free of political pressure by the majority, where disenfranchised groups could seek redress. For those who lacked access to the political system—often as not by being deliberately barred from it—courts could insist on the application of constitutional norms. Legislation to foreclose legal remedies would leave them without such a forum.

The only other body available to Native Americans—the Senate Select Committee on Indian Affairs—is already in danger of being sacrificed to the bureaucratic imperatives of "reorganization" and "streamlining." Under the active leadership of Sen. James Abourezk (D., S.D.), more than thirty bills of major concern to Native Americans have been reported out of committee in the last fourteen months. The committee has also been the focal point of lobbying efforts to decentralize power in the moribund Bureau of Indian Affairs and to recodify all federal laws pertaining to Indian affairs. Yet, there is a good chance that the Senate will terminate the Committee on Indian Affairs at the end of the current session. If so, both legal and legislative avenues of reform in Native American affairs will have been severely curtailed.

In the past, much of America's success as a democracy was based on its ability to respond to new demands for equality by drawing on apparently unlimited resources. Today, America is no longer a country of unlimited resources and opportunities. Questions of equality, there-

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fore, will have to be dealt with by redistribution of wealth. That will prove painful, even for a "people of plenty," but unless our society accepts its necessity, the promise of equality in American politics will come to an end.

The "longest walk" will have been a futile walk unless the Indians can demonstrate that their cause is not peculiar to them but is part of the necessary restudy of the meaning of equality that is engaging America in the last quarter of the century. It may be well to remember, though, that the demands made by the Indians so far have not implied excessive costs: a society that can protect the snail darter from extinction must surely find the resources to honor its binding legal commitments to a people in many ways equally endangered. □

The Meaning of Bakke's 'Window'

JACK GREENBERG

Bakke grappled with an American version of an issue that has engaged societies since the beginning of recorded thought and continues to be disputed around the globe: who gets what? Or, how distribute power, prestige and wealth? Before looking at how the Supreme Court treated the question it might be useful to glance at other value systems and other lands. For example, Plato's *Republic* used a kind of color-coding (which suggests the slavery and apartheid once sanctioned in the United States) and proposed three classes: guardians or rulers (gold); soldiers (silver), and laborers (brass and iron). There was to be no sex discrimination. Aristotle, arguing for more of a merit system, believed that to promote the common interest and combat divisiveness, broader participation by many average persons might be better than that of a few excellent ones. He echoed Xenophon, who wrote that "it seems just that the vulgar, the poor and the people are given preference to the distinguished and rich people, for the simple reason that the people is the motive power in the navy and gives the state its strength. . . ." The modern philosopher read most widely today, John Rawls, advances his "difference principle," according to which "liberty and opportunity, income and wealth, and the bases of self respect are to distributed . . . equally unless an unequal distribution of any or all of these goods is to the advantage of the least favored."

Moving beyond philosophical abstraction, practices in other nations show how pervasive are the distribution questions put by *Bakke*. In China, where children from working-class or peasant families were until recently given special consideration in admission to higher education, entrance examinations have been reintroduced that will increase enrollments from the middle classes. India reserves a proportion of university places for certain disadvantaged castes. In the Netherlands, where there had been open admissions to schools of higher education, including medical school, for graduates of elite secondary schools, Parliament in 1972 established a lottery for entrance to institutions where capacity is limited. At first, those with superior grades were automatically admitted; those whose marks were lower entered the lottery. In 1975, the Education Ministry proposed that all students, regardless of grades, enter the lottery. Parliament compromised by weighting selection in favor of those with the higher marks. Sweden, to help less-privileged students, reserves 20 percent of places in most university classes for students at least 25 years old and with four years' work experience. The French Ministry of Education has proposed that a greater equality of opportunity can be achieved by merging elite and nonelite secondary schools into one system open to all, with everyone required to take some classes requiring manual work.

Admission to American higher education, with our private and public schools and variety of financial arrangements, is complex, but has not been equally available to all. As in China, India, Holland and probably everywhere else in the world, class and race have heavily affected who acquires the conventional credentials like scores and grades, and have otherwise determined who gets into which school and, in time, who achieves leadership and wealth. Justice Blackmun, in his concurring opinion in *Bakke*, pointed out other, less generalized and more manipulable uses of higher status: "institutions of higher learning . . . have given conceded preferences up to a point to those possessed of athletic skills, to the children of alumni, to the affluent who may bestow their largesse on the institutions, and to those having connections with celebrities, the famous, and the powerful."

The Davis Medical School of the University of California, by setting aside sixteen places for the purpose, tried to reduce some of the deficits that minorities suffer. How the Supreme Court divided on this action reflected, in large part, the Justices' differing perceptions of the need to repair those handicaps. In a lawsuit over the meaning of an expression like "equal protection of the laws," plain language offers little help. The Court looks to history, precedents, legislation and other legal materials. But the principal contention among the conflicting opinions had to be one of values. These are differences of the sort that exist between philosophical systems like those alluded to above. The division reflected, also, differences of outlook as to how virulent racial discrimination remains today as a factor limiting black opportunity. Recourse to values is inescapable in most constitiutional litigation; that explains why the bitterest fights over confirmation of Supreme Court Justices have been over their philosophies, even though

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Sacramento Bee

"Tell Me, Thurgood, Are You Here on 'Affirmative Action' or 'Quota System'?"

the ostensible issues have been honesty and competence. (Notoriously, those philosophies often have been gauged imperfectly.) Questions of justice like those which engaged Plato and Aristotle, and which today are disputed around the world, were unavoidable in *Bakke*.

On these questions, Justices Brennan, White, Marshall and Blackmun disagreed with Justice Powell. The other four Justices were silent because they, in an opinion by Justice Stevens, thought that Title VI of the 1964 Civil Rights Act did not impose the same requirements as the Constitution, and Title VI forbade the university to make racial preferences. (Title VI forbids recipients of federal funds to discriminate.) Therefore, they did not reach the constitutional question. The Brennan group held that Title VI and the 14th Amendment demand identical standards and that the conditions which the amendment was designed to deal with (slavery and its heritage) have not changed enough to warrant scrapping its special concern for blacks: ". . . [We] cannot . . . let color blindness become myopia which masks the reality that many created equal have been treated within our lifetimes as inferior both by the law and by their fellow citizens." Justice Blackmun wrote a separate opinion stressing that "until the early 1970s . . . less than 2 percent of the physicians, attorneys, and medical and law students in the United States were members of what we now refer to as minority groups," and that "the original aims of the 14th Amendment persist even though its application has been somewhat generalized." Justice Marshall also wrote separately, recalling that "350 years ago, the Negro was dragged to this country in chains to be sold into slavery." He recounted the short-lived efforts at Reconstruction and asserted that "measured by any bench mark of comfort or achievement, meaningful equality remains a distant dream for the Negro." The Brennan four concluded, therefore, that "a state government may adopt race-consciousness programs . . . to remove the disparate racial impact its actions might otherwise have and if there is reason to believe that the disparate impact is itself the product of past discrimination, whether its own or that of society at large." They held, therefore, that Bakke had no case.

This created an impasse (Brennan et al. saying the Constitution allows racial preferences, Stevens et al. saying Title VI forbids them, but silent on the Constitution). It was resolved by Justice Powell, whose opinion created the narrow window through which Bakke was admitted and which, therefore, has received the greatest attention from the media. Powell also engaged in wide-ranging discussion of a variety of affirmative action programs, but his opinion may not be a reliable indication of where the law is going. After all, Powell's vote is one as against the Brennan four. If only one of the Stevens groups were to join the Brennan group their opinion would constitute the authoritative statement of constitutional law. But first a description of how Powell got to his result.

He agreed with Brennan that the 14th Amendment and Title VI set the same standards, but not that the conditions which gave rise to the 14th Amendment persist. As he sees it, special treatment for blacks may have been justified when the amendment was adopted, but it was soon largely incapacitated by the Supreme Court as a measure for securing racial equality and converted into a measure in defense of property rights. When, a half century later, the amendment was revivified as a civil rights measure so many other minority groups had claims on it that blacks had missed the bus. They no longer could be preferred. The amendment might, however, be raised in defense of academic freedom. If a university desired to achieve a diverse student body (by admitting students with ethnic, athletic, musical and other qualities) to benefit the education of all, it might do so (this is the so-called Harvard plan). A rigid racial quota would not serve such a purpose, however. Therefore, Bakke was excluded wrongly.

In effect, the Powell opinion justifies consideration of race in admissions to benefit the larger, white community(!) although, incidentally, it also benefits blacks. (An un-Rawlsian result indeed, for it favors least advantaged blacks in order to benefit more advantaged whites of the greater student body.)

Powell's opinion has two other interesting facets. He goes to some lengths to assert the validity of various non-academic racially preferential programs in school desegregation, employment and voting. He regularly refers to governmental determinations of need for affirmative action programs of these sort and deprecates the University of California plan as that of an "isolated segment of our vast governmental structures." Powell seems to believe that governmental organs which are politically more ac-

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countable than is the Court should participate in formulating and monitoring racial preferential programs. It is hard to find that notion in the Constitution, whatever good political sense it might make.

The abstract legal situation, therefore, is that five Justices say Title VI and the Constitution are the same. The Stevens group view of Title VI as different from the Constitution, therefore, ought to be rejected in future cases, if precedent is followed. Members of the Stevens group, therefore, will have to sign up either with the Brennan or Powell view or take some other position. It may very well be, on the basis of expressions in other opinions, that one or more of the Stevens group will agree with Brennan, thereby making racial preferences of the University of California type, at least, constitutional. Should that occur, and another *Bakke* case arise, the plaintiff would lose. Bakke would have entered through a very narrow window, indeed!

This, of course, means more litigation with two kinds of consequences. First, the above analysis is probably a lot crisper than the way that others see the law, and various national, religious, political and labor organizations, as well as individuals, will oppose the Brennan group view in Court, politically and otherwise. They will be trying hard to fashion cases that may get votes from the Stevens four. They will try to persuade universities, corporations, unions and others not to employ racial preferences. Powell-approved preferential treatment—to create diversity, not to give redress for past discriminations—will be attacked as straight racial preference in disguise. Most schools use Harvard, not California types of affirmative action, but attempts will be made to show that what is described as generalized, nonrigid consideration of race as one among a number of factors amounts to mere racial preference. Under this kind of assault some institutions will retreat, some will crumble, some will fight. But in many places there will be a chilling effect on those who want to correct past racial injustices through affirmative action. The lack of clarity could create somewhat the situation that existed after the Supreme Court's 1955 "deliberate speed" decision. A lot of litigation, some movement toward integration, but not much.

Legally, the situation seems ultimately more hopeful. Justice Powell's positive discussion of nonacademic affirmative action, plus the opinion of the Brennan four leaves room for various types of affirmative action to continue unimpaired. But, the legal goal now for civil rights lawyers is to persuade one or more of the Stevens four to endorse the Brennan view. Several of them seem open to persuasion. The struggle to bring America's black (and other racial minorities) into the mainstream and to end the caste, inequities and divisiveness the 14th Amendment was adopted to end will be intense, lengthy and expensive. But so has it always been. □

HOW WRONG CAN YOU BE?

CARTER AND THE LAWYERS

STEPHEN GILLERS

On Law Day, 1974, Governor Carter of Georgia gave an impromptu speech which, by a series of random events, became a giant step on his road from obscurity to President. It happened that Sen. Edward Kennedy was in Georgia that day, and it happened that journalist Hunter Thompson, who was also there (following Kennedy), heard the speech and liked it. Thompson taped the speech, assuring its preservation for posterity, and wrote about it a year or so later in *Rolling Stone*. It came to be seen as an attack on lawyers, and that, it is commonly believed, boosted Carter's image among folk who would otherwise be suspicious of a Southern Governor.

Last May, Carter gave another speech, this time before the progressive Los Angeles Bar Association; from the start, it was billed as an attack on lawyers. Perhaps Carter fears that he is sliding back down that steep road from obscurity to fame and has decided to return to the subject that seemed to work for him back in Georgia. The trouble is, however, that Carter is now President. His words are going to be examined more closely than when they spilled from Hunter Thompson's tape recorder. The old passion and Populism will not work, at least not without content.

Carter gave Jim Fallows, a speech writer of good reputation, the text of his 1974 address and instructed him to write something similar for the Los Angeles Bar appearance. Fallows talked to lawyers in and out of government before setting to work. Others saw the speech, and at least one lawyer close to the President thought it was too tough. Carter reportedly did not believe it was tough enough but was dissuaded from changing it. The President made sure that the "attack" segment of his speech would receive the greatest play by giving the talk before a bar association. It would not have received the same attention or the same lead had it been presented, say, to the League of Women Voters. The White House press office apparently, if informally, encouraged the attack view, knowing that a speech against doctors was to follow a day later.

Carter's 1978 speech is really two speeches. A tenth of it discusses the legal profession, but the bulk of it is Carter's Executive and legislative program for reforms in law and law-related areas. These proposed reforms have nothing to do with the legal profession as such; rather, they raise social and political questions on which

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lawyers, like all citizens, will take sides.

Should the speech then be discounted as a Presidential attempt to revive a falling image? No, for several reasons. It does reflect a fundamental public hostility toward lawyers, which Carter senses. In addition, those of us concerned with or for the profession should not miss the opportunity to participate in the national debate that inevitably follows Presidential attention of any kind. Finally, Carter's criticism of the profession is both wrong and inadequate. By confusing and missing important issues, he has hurt the reform effort. A review of the speech is needed to set things straight.

Even within the tenth of Carter's speech that supposedly attacks lawyers, there are three separate issues, each of which requires (but did not get) separate analysis. These issues may be called the Trade Association Mentality Issue, the Capitalism Issue and the Justice Issue.

The Trade Association Mentality Issue gives Carter his best argument; would that he had stated it better. It is one of the minor ironies of Carter's talk that there are probably a thousand people in the country who could have turned out a superb paper on the Trade Association Mentality Issue in forty-eight hours, and would have been happy to do so. Yet the President, able to tap the talents of the best, settled for a discussion of this issue that is less than fifth rate, making it easy for the bar to wiggle free of the charge.

For the truth is that the bar has for years used ethical bugaboos and related rules to control competition and artificially raise fees. If another business had acted the same way, its leaders would have been put in jail for antitrust violations. The bar has conveniently argued that law is not a business but a profession, and that such conduct is therefore acceptable. This semantic sleight of hand has worked for decades and still does. Only recently have some lawyers and members of the public been pointing out that the "profession" label serves mainly to increase the lawyers' take, with no equivalent yield on the give side of the equation.

Prohibitions on advertising, opposition to closed panel plans, rules against solicitation and the unauthorized practice of law, minimum fee schedules enforced with disciplinary sanctions, resistance to judicare and the private use of insurance principles to spread and reduce the cost of legal services—these and other positions, supposedly based on a concern for ethical purity, have raised the cost of legal services and made lawyers rich. Old habits die hard. Even after numerous Supreme Court rebuffs to their ethical positions, lawyers have tried to find new ways to do the exact same thing. For example, after a series of cases starting in the late 1960s specifically recognized the constitutional right of litigants to organize to buy lawyer time (and court access) more cheaply, the American Bar Association, to its shame, continued to prohibit (not just oppose) closed panel plans, whereby a group is formed to employ a lawyer for substantially less than it would cost each member to retain one.

In short, for personal gain lawyers have raised the cost of a ticket to the justice system we do have (whatever its virtues or faults), and have even excluded some people entirely. There is an important lesson here about the temptations of self-policing and monopoly power, even for a so-called profession. But though it was his strongest point, Carter did not drive it home. Only a few summary sentences in the speech refer to the Trade Association Mentality Issue.

Carter tossed out two other subjects, related to but slightly different from the Trade Association Issue. These are no-fault laws and class actions. Lawyers oppose no-fault laws because, where they apply, disputes can be resolved without legal help to prove fault. Money (or other benefit) changes hands but the lawyer no longer gets his cut. Opposition to no-fault laws responds to the same economic self-interest as do the so-called ethical rules discussed earlier. But lawyers cannot convincingly make ethical arguments against no-fault. So attacks on it are justified by reference to the interests of the client, when the interests of the lawyer are really most at stake.

Class actions are another matter. They give small clients the same litigation leverage and deep pocket that corporate, governmental and other large institutional parties have always enjoyed. The problem is that class-action leverage is generally used against these same institutional litigants, through antitrust, securities, or consumer rights lawsuits. As a result, class-action laws are supported by lawyers who want the business of representing the class-action plaintiffs, and they are opposed by lawyers whose clients will be the defendants. Lawyers who oppose the class-action mechanism are therefore doing what lawyers have done throughout the life of the profession—representing the economic interests of their clients. It is up to legislators, who make the class-action rules, to strike a fair balance between the two sets of clients.

The Capitalism Issue looks like the Trade Association Issue but is different in important ways. Carter ignored the differences. We can appreciate why, for the Capitalism Issue inquires about the responsibility for injustice in a free-market economy, where law and legal talent are bought and sold for money. Here we do not raise questions about what lawyers do to balloon their fees. Even if every lawyer in the country avoided such manipulation, the Capitalism Issue would still be with us. If legal talent is treated as a product to be bought and sold, which it basically is, and if some people have more money than other people, which they do, then the distribution of lawyers (and access to the decision-making tribunals and the information lawyers sell) will be heavily skewed in favor of the wealthy. Some people will get more talent, some less and some none at all, according to their means, not their need. New law graduates learn this lesson dramatically when they encounter the unavoidable truth that jobs follow the dollar.

The President adverted to the Capitalism Issue repeatedly in his speech, without explicitly recognizing it as a problem of capitalism. In fact, he intimated that it was a problem of the bar, a grossly unfair charge. Most people would prefer free or cut-rate housing to free or cut-rate legal services, but does this mean that builders must ignore the very real forces of a free market to cor-

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rect the shelter imbalances capitalism inflicts on the needy? And even if the "fact" that law is a profession does impose a greater burden on lawyers than on builders (although logically I'm not sure why), capitalism so heavily distorts access to legal talent that even a massive bar effort would hardly make a dent in the maldistribution.

So when Carter says that 90 percent of the lawyers serve 10 percent of the people—an obvious guess that is misleading in so many ways it would take another article to show how—he is putting the responsibility to alter that equation before the only body capable of doing so: government.

But Carter does not acknowledge this responsibility. In fact, he appears to disown it when, after referring to the inability of the poor and middle class to "take advantage of skilled legal talent at reasonable rates," he immediately adds that "the bar has an obligation to accommodate those with modest incomes" and that the "best" way to do so is through "free and open competition." This position is twice wrong: the bar doesn't have the power (or responsibility) to make sure the free market's rejects are serviced and, in any event, open competition won't solve the problem.

There is a second irony in the Carter speech, pointed out by Judge Marvin Frankel at a recent New York City Bar Association forum. The President presents himself as a Robin Hood, eager to take from rich lawyers and give to the poor and middle-class clients who have been excluded by an unfair legal system. Yet it was the same Carter who not long ago shrugged off the inability of poor women to have elective abortions with the detached observation that life was "unfair." When the burden to correct unfairness falls on government, it seems the inevitability of inequality is acceptable. Or perhaps Carter finds it intolerable that an uncounseled man should have his TV set reclaimed by the finance company's lawyer, but not that a poor woman should be forced to bear an unwanted child for lack of $100.

The Justice Issue asks a third series of questions, dealing not with the cost of lawyers or who can afford them but with the rules of society. Many of Carter's proposals, and most of his speech, covered this front. Lawyers will reject or support these proposals, as will interested citizens generally, but it is not a professional issue. Carter, however, used the Justice Issue improperly to support his criticism of lawyers. This makes it easier for lawyers to defend themselves against the whole of his attack, including on the Trade Association Mentality Issue, where Carter was right.

For example, Carter mentioned the "right to be informed of one's legal rights when arrested," saying it had been "won only after intense struggle." He does not say who waged the struggle or against whom. The fact is that the *Miranda* case, establishing this right, was brought by private lawyers and opposed by twenty-nine states, Puerto Rico, the Virgin Islands and the United States Government. After *Miranda*, Congress immediately began efforts to restrict it and the federal and state governments to this day continually try to overturn or limit it in court.

Carter also talks about the right of access to the courts, but the fact is that the *Boddie* case, establishing a limited access right, was brought by legal services lawyers and resisted by nine states. The federal government halted expansion of the access right a few years later when it successfully challenged the effort of a poor man to file for bankruptcy without having to pay the court's fee.

Carter speaks of the Equal Rights Amendment and urges lawyers to support the "full participation of women . . . at all levels of society." But he does not mention that it is the federal government, fighting private lawyers, that has continuously, nearly always without success, resisted efforts to make the Social Security law apply equally to women and men.

Finally, Carter accurately points out that in his "region of the country . . . lawyers of great influence and prestige led the fight against civil rights." (Some would point out that the lawyer the President appointed to head the Justice Department was one of them.) But private lawyers worked and planned for decades in order to win the leading civil rights case of all time, *Brown* v. *Board of Education*—which overturned the infamous "separate but equal" doctrine. The point is not simply that private lawyers brought the *Brown* case; it is equally revealing that the federal government did *not* bring it or seek to pass legislation overturning "separate but equal" in Congress. True, once the case was in the Supreme Court the federal government submitted an *amicus* brief in aid of the plaintiffs, but a rereading of that brief shows something interesting. While the plaintiffs and their supporters sought the demise of the "separate but equal" doctrine as their first line of attack, the government brief urges the Court to avoid reaching the validity of "separate but equal" by making a narrower finding that the facilities available to the blacks were not equal. In other words, if the Court had followed the government's suggestion in *Brown*, "separate but equal" would still have been the law of the land.

Enough said on the Justice Issue. Governments, not lawyers, have the real power to further or impede justice for blacks, women, criminal suspects and the poor.

There are other problems with the Carter speech. He

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says that corporations spent twelve times as much on legal services as was spent on federal, state and local courts. This is a meaningless comparison. Most legal services never involve litigation in court; there is no reason why its cost should relate in any way to the cost of running a court system. Carter announces a "major new effort on white-collar crime" while also reviewing "our prison policy alternatives to incarceration." Who does he think will be most likely to benefit from alternatives to incarceration if not white-collar criminals? Carter says that "noncontested divorces become major legal confrontations in many states." He can't point to one. If two people agree not to contest their divorce, no confrontation is possible, by definition.

One could go on, but it is not necessary. Carter was obviously willing to be wrong in order to be popular. Certainly there are more voters in the country than there are lawyers. But apart from the political motives for the speech, it is also clear that the subject is one on which Carter feels strongly, though his thinking is uninformed. Carter may be, as lawyer-watcher Mark Green suggests, the first President to have such feelings about these important problems. If so, one hopes that the next time he decides to take on the legal profession he will first do his homework. He might then be constructive as well as right. □

PROPOSITION 13

THE VOICE OF RAW GREED

PETER CONNOLLY

As all who could possibly care now know, the voters of California recently voted, by a 2-to-1 margin, to slash state property taxes by an estimated $7 billion. Henceforward, all property must be taxed at 1 percent of its assessed value, with increases in assessment limited to 2 percent a year, while property remains in the same ownership. Proposition 13 applies to industrial as well as residential property. Not only will it provide a large present subsidy to business but it insures that business property taxes will be proportionately lower than residential property taxes in the future, since private individuals tend to move more often than do business firms. Though cushioned to some extent by the one-shot allocation of an existing state budget surplus, the effects of Proposition 13 are already being felt. Schools, parks, libraries, museums, day-care centers and facilities for retarded children are closing or will have their operations drastically curtailed. Policemen, teachers, social workers and firefighters are being laid off. By all accounts, California municipalities are locked in a desperate struggle for the state funds with which to provide essential services.

The social origins of this catastrophe are complex and various. They include, *inter alia*, skyrocketing property values, all too efficient tax assessors, localities evidently incapable of lowering property tax *rates*, a legislature previously unable to decide what to do with a $5 billion surplus, and the fecklessness of Governor Brown.

However, all these explanations pale into relative insignificance when one observes the nature of the social movement which gave us Proposition 13 and its leaders. It is a movement which possesses some of the virtues of the old New Left (bottom-up organizational structure, hostility to the powers that be, shrewd tactical sense and skillful use of the mass media). However, its participants were not animated by an outraged sense of justice, but by the ugliest kind of *ressentiment* and barely concealed racism. Surely the most stunning poll statistic regarding Proposition 13 was the one that revealed that a majority of its supporters thought, with complete inaccuracy, that they were voting to cut welfare. Blacks, sensing this, opposed Proposition 13 solidly. In listening to Howard Jarvis, one hears the voice of an America one thought was blessedly gone, a country of raw economic greed, unmodulated by the precarious though real moral accomplishments of U.S. society during the past thirty years.

It is therefore disheartening to observe the confused quality of some left-wing reactions to this *poujadiste* social earthquake, whose reactionary tremors are now being felt in every state and in both houses of Congress. Carey McWilliams, in the June 17th *Nation*, tells us that Proposition 13 is basically a healthy phenomenon, but that we should "withhold our cheers" until we observe its effects. *Inquiry*, a generally intelligent new liberal magazine published in San Francisco, consistently supported Proposition 13, seeing it as a desirable Populist shake-up for the rulers of California. Richard Reeves, in the May 23rd *Esquire*, published a paean of praise for the movement's anti-government motives but drew back from actually supporting Proposition 13, calling to mind Conor Cruise O'Brien's remark that there is a kind of "understanding" which is a complicity. Alexander Cockburn and James Ridgeway, in the June 19th *Village Voice*, though acknowledging Proposition 13 for the reactionary debacle that it is, nonetheless portrayed it as the product of a sinister collusion between "big business" and the "petite bourgeoisie," conveniently overlooking the mass support that it received from the working class and the fact that big business, to its credit, generally opposed the Jarvis-Gann crusade. Even Michael Harrington, in the June 15th *New York Times*, though naturally "appalled" by Proposition 13's effects, argued that it was a misguided attempt at desirable tax reforms.

In my view, these comforting articles are exercises in self-delusion. I believe that Proposition 13 is the harbinger of a reactionary counterrevolution in American

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politics that could make the Carter years seem like a golden age. Liberal attempts to recognize and tame the "positive side" of this movement will only strengthen the Reagans, Hatches, Kemps, et al., who will be its political beneficiaries. To say this is not to say that California's property taxes were not in need of prudent reduction. It is to say that liberals and serious radicals ought to stop banging the Populist drum and doing their bit to destroy the ideological legitimacy of our governmental institutions. For the ever growing contempt for government, which is the most perceptible undercurrent in national politics, is essentially a disguised form of contempt for the possibility of humane collective action. And the vogue for neo-Populist rhetoric among some liberals and radicals only feeds this contempt and thus further undermines the prospects for a more decent society. It must be understood that cultural conservatives like Howard Jarvis and Anita Bryant can come into prominence only when the existing structures of political authority have suffered a radical loss of legitimacy.

What is needed on the Left is a return to the language of domestic liberalism, rather than Populism/progressivism; of appeals to moral obligation and a sense of social generosity, rather than to truculence and resentment. People must be insistently asked whether or not they want a society where retarded children receive decent care, rather than whether or not they think someone is screwing them. Their answer to the latter question will usually be "yes," but their choice of suspects will almost never yield social progress. This is a plea which is unlikely to be heeded in a country where the only politician still willing to call himself a "liberal" is Henry Jackson. It is possible that the type of language used by liberals may be of little consequence in the political upheavals that lie ahead. But recognizing reality is always desirable and the reality is that Proposition 13 is very bad news for the democratic Left. Those readers of *The Nation* who think that they have something in common with Howard Jarvis will soon learn to their sorrow that he has nothing in common with them. □

Fuel Oil: The Rip-Off Runaround

FRED J. COOK

It is summer, and one worry I do not have is keeping warm. But winter will surely follow summer—and then the major oil companies will begin filching my pocketbook again. They'll be selling me fuel oil at a price that makes it more expensive than gasoline.

There is, I am afraid, no hope that the philanthropists who dominate the Trilateral Commission, founded in 1973 by David Rockefeller and Zbigniew Brzezinski, will pass the word to their slaves to give the American homeowner a fair shake. Of course, we all remember how President Carter in his first fireside chat called on all Americans to devote themselves to "joint efforts and mutual sacrifice." Since Carter himself had been a member of the Trilateral Commission (that elite group that parrots the views of the Rockefellers, Exxon, Chase Manhattan, Mobil, etc.) it seemed natural that the President's call for sacrifice and devotion to the higher patriotism would resound like a bugle call in the board rooms of his former associates.

But not so—the "sacrifice" for which the President called turned out to be the consumer's sacrifice. Things for the consumer got steadily worse, and for the oil companies steadily better.

And the future promises to be a repetition of the past. Since I began calling attention to the fuel-oil rip-off last winter, the New Jersey Department of Energy has retreated into silence; and the federal Department of Energy in Washington, responding to a query from my Congressman, has come up with two single-spaced pages of bureaucratic double talk that left me disgusted and my Congressman, to say the least, sadly disappointed.

I first became curious about the fuel-oil gouge in the winter of 1976-77. We all, I am sure, remember that arctic season. My 93-year-old mother was then living in the old family home in Point Pleasant, N.J., making do on her Social Security allowance and some modest income from savings. Her fuel-oil bills began to go up—and up. And I began to wonder.

For at least thirty years before the petroleum crisis of 1973, fuel oil had been the cheapest product of the refineries, selling customarily for half the price of gasoline, often for less. So it struck me as decidedly odd that my mother was being billed 46.9¢ a gallon for fuel oil when the Exxon station at the corner of her street was selling regular gasoline for 56.9. That latter price included a 12¢ state and federal tax, while fuel oil was untaxed. So in fact Exxon was selling refined gasoline for 44.9¢ a gallon—2¢ a gallon less than my mother was being soaked for the fuel oil necessary to keep her warm.

I checked out my suspicion that these figures made no sense with one of the oldest fuel-oil dealers in my area, a man I have known for some thirty years. I thought he might have an explanation, and he did. He said the major refineries set the price, and dealers simply had to pass the tariff along to the consumers. He agreed that my figures and the deductions I drew from them were right.

"It seems to me, then, that there must be something wrong somewhere," I remarked.

"You better believe it," he said, with a disgust matching my own.

Neither of us knew at the time—though I have lived long enough to recognize a basic fact of life—that things were certain to get worse instead of better. The winter of 1977-78, as we all know, did its best to rival its frigid

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predecessor; and I soon learned that the fuel-oil prices that had shocked me the previous year were now, by comparison, positively *cheap*.

Fuel oil, which had been selling at around 18¢ a gallon before OPEC and the Trilateral Commission got into the act, opened the winter season at 48.9¢, crept up to 49.4 and finally stabilized, if that is the word, at 49.9. Yet gasoline, which costs more to refine and was carrying that 12¢-a-gallon tax, was still selling at major stations for 56.9, and sometimes 55.9.

Even my limited mathematical skill told me that this gouge was even worse than the rip-off that had made me angry during the previous winter, so I began to write letters to the press and to public officials who are supposed to have some slight interest in the public welfare. The immediate, knee-jerk response was that I was an interfering ignoramous. Edmund W. Renner, executive vice president of the Fuel Merchants Association of New Jersey, chastised me for ignorance "of the petroleum industry and government regulations over it."

There were, according to Renner, two principal facets to the problem. Imported Arab oil was more costly and prices had been increased on "new" domestic oil, compared to the lower prices on long-producing wells. I may be simple, but I could not understand, since the same crude-oil mix is used to produce both gasoline and fuel oil, the only difference being the degree of refining, how the devil this made fuel oil more expensive than gasoline.

The trouble was, Renner wrote, that the federal government had kept a top-ceiling price on gasoline, but fuel-oil prices (in one of the Ford administration's last generous gestures to big business) had been decontrolled on July 1, 1976. Hence, "Major companies 'tilted' production costs to fuel oil for the winter 1976-77 season."

That wasn't all. Since that bad-tempered federal watchdog had refused to allow the major oil companies to "tilt" gasoline prices upward during the summer of 1977, "major producers were forced to include certain production costs of both gasoline and fuel oil in fuel-oil prices because of the language of the control legislation." That sounded to me like very fancy bookkeeping—a way of robbing Peter to pay Paul—and then Renner slipped. He explained that the federal Department of Energy was using a "price index monitoring system" to check on fuel-oil prices, and added: "Under this system, the actual selling price is too high."

I jumped with glee at this admission, but Renner quickly had second thoughts when he read his statement in the Asbury Park *Sunday Press*. He protested that some qualifying words had been inadvertently dropped from his original letter and that he had not at all intended to admit that prices were "too high."

It soon became evident that, bookkeeping practices aside, Renner's contention that federal regulations on gasoline were to blame for the "overtilting" of costs on fuel oil was so much hogwash because gasoline continued to sell well *below* the allowed ceiling. And since one must assume that the major oil companies are not running a charitable business, the necessary conclusion was that they were making a profit at those prices. Irving Oelbaum, director of operations of the New Jersey Department of Energy, resolved this puzzle for me when he conceded that "there is a price war on in gasoline at the present time which results in less than the normal price for it."

This was a tacit admission, as responsible energy sources were reporting that there was a glut of crude oil and, hence, a price war on the gasoline front. Why, then, was there no comparable "price war" on the fuel-oil front? The answer is fairly obvious. A car owner has a mobile conveyance; he can shop around, looking for the best price, and there is some chance for competition. But the homeowner can't move his house in pursuit of an oil bargain; he is an imprisoned customer of the system —and helpless.

My tilting with the oil companies brought some unexpected results. A correspondent in Eatontown, N.J. sent me a clipping from the Plymouth, N.H. *Record-Citizen* containing an advertisement in which the Stinbrook Oil Company offered fuel oil at 44.9¢ a gallon, C.O.D.—5¢ a gallon less than we were paying in New Jersey in an area that sits almost on top of some of the largest and smelliest petrochemical installations in the nation. Hah!, I exclaimed, and I wrote Irving Oelbaum, asking if he could explain this one to me. At that point, Oelbaum and the state Department of Energy went into a brown study, never to be heard from again.

Down in Barnegat, N.J. John R. Laird raised another significant point. Retired, he was living in a mobile home heated by kerosene, a fuel that traditionally has sold for a couple of cents a gallon more than fuel oil—but still far cheaper than gasoline. Laird wrote: "I own a mobile home and live in it the year round, and the last delivery I had . . . was 53¢ a gallon. . . . This is only 2¢ a gallon cheaper than gasoline and no tax. Most of us who live in mobile homes are on Social Security and fixed incomes. I hope somebody will look into this rip-off."

Since thousands of retired persons live in the central New Jersey area, many of them in mobile homes like Laird's, I wrote the Congressman from our district, James J. Howard, sending him all my exchanges and exhibits on the issue. I added:

> To me, the whole situation spells out one of the cruelest rip-offs of the American consumer perpetrated by the major oil companies. People simply have to have fuel to heat their homes in winter—and they are helpless to combat a pricing system that, in essence, makes fuel oil more expensive than gasoline. Since this is a situation that affects thousands of your constituents, I am soliciting your good offices to build a fire under the federal Department of Energy.

Congressman Howard replied that he was impressed by the material I had sent him, and had asked the Department of Energy for an explanation in writing. It took some six weeks (by this time the winter was over) for the DOE to grind out the expected bureaucratic response that said, in essence, that the watchdog was watching, alert, vigilant, protective—and that nothing was really wrong.

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The DOE began by citing the July 1, 1976 decontrol of fuel-oil prices. This had been done, it said, because "the Federal Energy Administration (FEA) determined that supplies of middle distillate fuels, including heating oil and kerosene, would be adequate to meet the nation's requirements and that competition would be adequate to protect consumers if price and allocation controls were removed."

Competition? The sentence blithely ignored the fact there was *no competition* in the heating-oil phase of the industry. The refineries set the base price as they pleased; oil dealers added their margin of profit and passed the tariff on to the consumer. It did not matter what company one dealt with, as I had found out by checking; everywhere the price was the same. What had resulted was a uniform, administered price that bore no possible resemblance to legitimate production costs. Competition! It was enough to make one laugh if the pretense didn't make one so angry.

Douglas G. Robinson, an assistant administrator in the Department of Energy who wrote that dilly about competition, continued by parroting the official line: "The prime reason for this increase has been the increase in the world price of crude oil, which is controlled by the OPEC cartel." Those Arabs again! They were to blame for everything, and all we could expect, Robinson added, was that prices would go still higher.

As for the disparity between gasoline and fuel-oil prices, Robinson acknowledged: "One reason is that the supply of gasoline is currently abundant and most suppliers are not charging maximum ceiling prices." One had to wonder what had happened to the supply of heating oil. With crude oil so abundant that gasoline tanks were overflowing and stations couldn't charge that top-ceiling price which Renner had cited as the villain, what justification could there be for pricing fuel oil as if it were a rare commodity? Especially since refineries adjust their production schedules to produce more fuel oil in winter, more gasoline in summer.

Robinson did not address himself to those obvious questions, but touched lightly on the problem of the New Hampshire fuel-oil dealer. The department, he said, couldn't explain how fuel oil could be sold 5¢ a gallon cheaper in New Hampshire than in New Jersey—perhaps the C.O.D. provision was part of the answer—but DOE surveys showed that, on the whole, "New Hampshire prices are slightly higher than those in New Jersey."

Robinson then asserted that DOE's survey showed "heating prices have not risen disproportionately to those of gasoline," ignoring all the patent evidence of the ongoing price gouge. The DOE, Robinson assured Congressman Howard, would "continue to monitor this situation and will take whatever action is necessary, including the reimposition of controls, if middle distillate prices begin to rise at a rate not consistent with increases in proportionate refining costs."

Begin to rise! The whole sentence was as ridiculous as it was infuriating. Congressman Howard was no more enchanted than I was. He wrote me that he was "disheartened by the lack of mention about refining-cost controls, which apparently trigger middle distillate prices. Considering the turn of words in this particular sentence one could assume that if the price of both continues to rise nothing is triggered to help consumers."

I liked that phrase—"nothing is triggered to help the consumers." That is the real truth of the matter. □

A QUIET SPRING IN PRAGUE '78

ANTON NOVAK

It was back in 1415 that they burned Jan Hus at the stake, but heresy lives on in Prague. Its latest resurgence, ten years ago this spring, was the doctrine of socialism with a human face. The orthodox had no intrinsic quarrel with this formulation, except that their idea of a human face turned out to be Leonid Brezhnev.

The conceit is chilling for all its absurdity. Hitler looked almost as preposterous, but there was nothing funny about the way his henchmen dealt with the Czechs. And Prague today is once again an occupied city. The present occupation, though palpably real, is being managed by remote control and differs in fundamental ways from German and Austrian rule. The Soviets have learned a great deal in the past few decades about keeping a low profile and employing domestic help. The Czechs, in turn, have had roughly 500 years of practice in the art of surviving as a nation. The weapons forged in that age-old struggle won't stop Soviet tanks in head-on confrontations; at close quarters, contempt and irony are no match for a Kalashnikov. In the long run, however, the race is not to the swift but to the smart, and even Mao's heirs are beginning to find out that power does not, after all, reside in the barrel of a gun.

It is something the heirs of Stalin have known all along, one reason why they keep all intellectuals on a very short leash, and preferably under lock and key. Sporadic arrests are common in Prague, and Brezhnev's recent visit prompted a rather extensive roundup of known subversives. However, the experiment in preventive detention did not ward off a twenty-minute "equipment failure" that blacked out the nation's TV screens during Brezhnev's address to parliament and people.

Yet as these things go, it was a quiet spring in Prague. Despite patches of seedy decay, it is still a city of stunning beauty, one of the last great urban centers of the West whose medieval integrity remains almost untouched by the 20th century. It largely escaped the ravages of both destruction and construction; World War II did relatively minor damage to brick and mortar, while its aftermath wrecked the economy and thus averted the

Anton Novak has recently returned from a visit to Prague.

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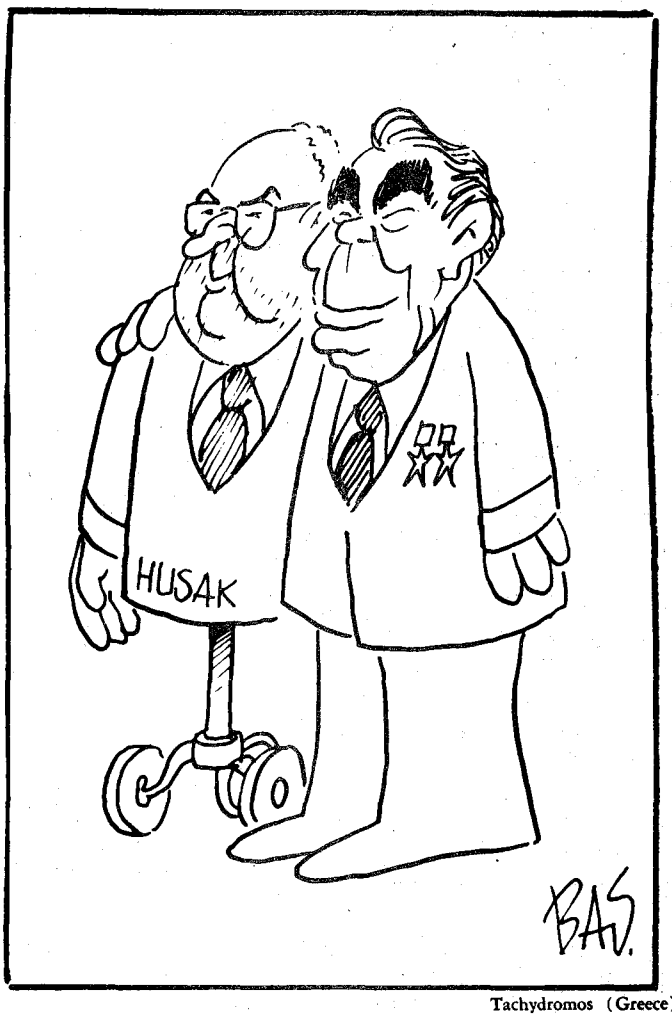
frenzied boom that has transformed so much of the rest of Europe into parking lots and glass cages.

The Germans, expelled en masse in 1945, are back in force as tourists from the fraternal German Democratic Republic. So are many other pilgrims from the East—Hungarians, Romanians, Russians—for whom Prague is about the only monument to Europe's past which they are free to visit. Young Euro-Communists, on the other hand, flock there for inspiration and, like travelers everywhere, end up finding precisely what they expect to find. Few Czechs would dispute the achievements that seem so impressive to these worshipful comrades from the West—modest but relatively equitable living standards, free medical care, extensive child-care services, and rational provisions for the aged. Of course, reality never lives up to ideals, and some of the murkier aspects are obvious even to the casual observer—shortages ranging from housing to consumer goods, a grotesquely bloated bureaucracy responsive to no needs but its own. Still, the accomplishments are real enough to warrant qualified admiration.

What they do not warrant are the ham-fisted repression and rampant paranoia that continue to mark Communist rule in Czechoslovakia. The Prague spring of ten years ago was inspired by a belief that socialism could coexist with freedom. The signers of Charter 77 still cling to that conviction; their opponents seem determined to prove them wrong. The primitive brutality with which authorities responded to what was essentially a symbolic gesture by a few hundred individuals, while indicative of genuine hysteria, was out of scale with the effect such protests may have in the population at large. Reactionaries tend to overreact. Still, ten years ago a similar cabal of articulate scribblers almost brought the country to the brink of war with Moscow. What are the prospects for today's dissidents?

There are no clear answers, only speculation, much of it focusing on the young. From all accounts, chronic discontent and disaffection among the under-30s are as widespread in the totalitarian East as they are in the permissive West. What most Western observers tend to overlook, however, is the virtual disappearance of an element that, historically, has been a prime mover for change: by stringently controlling access to higher education, the Communists in power have effectively defused the sort of student militancy which, when out of power, they so deftly exploit for their own purposes.

A planned economy mandates control of manpower. The product of education—the output of university graduates in any given discipline—is subject to much the same planning that applies to industry or agriculture. Practice does not always match theory, and centralized planning often leads to diffuse disaster. Moreover, Marxist criteria for admission to institutions of higher learning, while different in emphasis from those that govern admission to Ivy League schools, often result in similar inequities; the children of well-connected party functionaries are more equal than others. Broadly speaking, however, the systematic control of the student population has, over the years, had consequences of major significance.



Tachydromos (Greece)

The most obvious one is economic. Where post-industrial and developing countries find it increasingly difficult to cope with the unchecked growth of an academic proletariat, graduates of Czech universities will, by and large, be assigned jobs in their fields. These may not be the jobs of their choice, nor will a degree assure them significantly higher earnings; the spread between a physician and a lab assistant is rather small by our standards. But seen from a broader perspective, this restrictive planning has effectively choked off the vast oversupply of academically certified unemployed and unemployables which threatens serious social dislocations in many parts of the world. No doubt, it also chokes off much creativity and individual initiative; but whether the suppression of creative chaos is more damaging to society as a whole than lack of employment remains at least debatable.

Less obvious but perhaps even more important are the political consequences. By destroying the student movement at the source, the Communists have not only rid themselves of a self-perpetuating group of persistent troublemakers but also dismantled one of the more effective vehicles for social change. And by so doing, they have deprived dissenting intellectuals of a major ally.

At the moment, in fact, there are few visible signs of support for the human rights movement as represented by Charter 77. Whether this denotes lack of sympathy, in-

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difference or mere prudence is impossible to determine. In Prague, the prevailing assumption governing most people's conduct is that "they" know everything, that every wall has ears, that every room is bugged and every stranger a stoolpigeon or *agent provocateur*. The police state fosters this anxiety, no doubt deliberately, by way of enhancing its image of omniscience and omnipotence. Here as elsewhere, state security has its share of bumbling nitwits, incompetents and disorganization specialists like any other bureaucracy, but harassment, persecution and plain malignant violence are sufficiently frequent and widespread to justify persistent caution.

A more serious factor in the apparent lack of popular response is the shrinkage of the intellectual community, the steadily decreasing number of people to whom it makes a difference whether a writer gets published or punished. Being more papal than the Pope, Czech censors display far greater zeal even than their Soviet mentors. But it should come as no surprise even to Western liberals that free speech and a free press are not everyone's prime concern; a great many people don't read and have no desire to speak out of turn. As long as their more basic needs are being met, they may privately deplore police excesses but will certainly not risk their lives or livelihood for an issue they perceive as peripheral.

Their basic needs are being met—on a modest scale, to be sure, but the lack of luxury is balanced by the absence of at least overt misery. Housing remains a problem; while waiting for a solution, Prague's citizens will soon be able to ride what is being billed as the world's most modern subway, an ambitious joint Soviet-Czech enterprise. It may not meet their most immediate need—subways presumably are not for sleeping, except in the event of air raids—but they were not consulted.

In any event, the entire economy is a joint Soviet-Czech enterprise, in which the Russians exercise their big-brother prerogatives in single-minded pursuit of their political objectives. As in most satellite countries, the economy is being trimmed and sliced to fit Soviet requirements, with results that on balance seem essentially negative for Czechoslovakia. Its industry, once among the most advanced in Europe, has been technologically retarded to the point where it is now more or less in phase with Soviet standards—probably high enough when it comes to arms production, but decidedly spotty in all other areas. Automation and data processing are almost nonexistent in civilian industry. The conspicuous absence of computer technology, or of even such elementary equipment as copying machines, lends a charming turn-of-the-century air to the countless government offices that nest in the heart of Prague and occupy most of its venerably shabby edifices. While obsolete equipment and antiquated procedures may not encourage efficiency, they greatly increase the need for manpower and thus contribute to redeeming the promise of full employment that is a fundamental commitment of Socialist planning.

Whether this commitment can be reconciled with the growing pressure for increased productivity remains to be seen. It mirrors the dilemma faced—or, rather, sedulously not faced—in free-market economies: spreading technological unemployment as a result of rapidly accelerating automation. In both systems, the swelling and swollen government bureaucracies provide a safety valve by keeping vast armies busy with paper work.

If the current climate seems less than favorable to the Czech dissidents, they nonetheless continue to be persecuted with a zeal symptomatic of the regime's serious concern. And for all its paranoid overtones, this concern is grounded in reality. Irritants such as censorship, curbs on individual freedom, arbitrary arrest or the fate of a few disaffected writers may not rouse the masses, but one issue has not lost its devastating potential for trouble: it is the universal hatred of the Russians. Unlike the opposition within the Soviet Union itself, the Czech dissidents spearhead a struggle against alien rule.

That may not be quite the way they see themselves, their movement and their goals, but it constitutes a major source of their strength and a valid enough reason for the representatives of Soviet power to take them seriously. Neither side has forgotten the lessons of '68, and for all their thunderous rhetoric, the country's present leaders can have no illusions about how the vast majority of Czechs feel toward the Russians. Their contempt, seldom openly displayed, explodes instead in bitter jokes; black humor is a form of folk art that the Czechs have developed to perfection. Few admit knowing Russian, even though it has been intensively taught in all secondary schools since World War II, and the large selection of Soviet movies consistently play to empty houses, while all other theatres in Prague are regularly sold out. Only on rare occasions do the people's emotions get the better of them. Thus the victory of the Czech ice-hockey team over the Russians at the world championship semi-finals prompted an outburst which, as it spread from the stadium to the streets of Prague, turned into a tumultuous affirmation of Czech patriotism.

And it is the nature of this patriotism, defiance mixed with despair, defended for centuries against every kind of cultural, political and military aggression from abroad, that has thrust writers, of all people—a cantankerous, imaginative, but generally peaceful lot of unpredictable individualists—into the forefront of the struggle against what even loyal Marxists regard as a Soviet occupation.

An incongruous development, on the face of it, yet far from new; its history goes back for centuries. A Prague cabdriver, asked for the current name of what, between the wars, had been Masaryk Station, just shrugged his shoulders. "Who the hell cares. We still call it Masarykovo. They've taken everything else, but two things they can't take from us—our language and our memories."

For centuries the Czechs have with ferocious passion clung to these two things by way of preserving their identity as a nation. And writers, the custodians of language and of memories, have always played a crucial role in this battle. The latest assault on them is unusual in only two respects: unprecedented brutality on the one hand, and on the other, the equally unprecedented courage of those who, forbidden to write, have chosen to act instead in defense of man against the state.

If ever they succeed, Prague will have a different kind of spring. □

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BOOKS & THE ARTS

Armageddon Is Well Located

ACCESS TO OIL—THE UNITED STATES RELATIONSHIPS WITH SAUDI ARABIA AND IRAN. *By U.S. Senate Committee on Energy and Natural Resources, Henry M. Jackson, Chairman. U.S. Government Printing Office. 113 pp. $2.40.*

ISRAEL: THE EMBATTLED ALLY. *By Nadav Safran. Harvard University Press. 633 pp. $18.50.*

QUEST FOR PEACE. *By Bernard Reich. Transaction Books. 495 pp. $24.95.*

DECADE OF DECISIONS. *By William Quandt. University of California Press. 311 pp. $14.95.*

ISRAEL: UTOPIA INCORPORATED. *By Uri Davis. Carrier Pigeon. 182 pp. $10.*

NOAM CHOMSKY

The recent U.N. Disarmament Session offers a suitable occasion to consider the turbulent Middle East. Nowhere has the social pathology of the arms race reached such heights, the superpowers aside. And there is a fair chance that these armaments will be used, as in the past.

Each successive war brings new levels of ferocity and destruction. In an "incursion" that will not even appear in the list of wars, yet another quarter-million Arabs were driven from their homes in Lebanon only a few months ago. Israeli Chief of Staff Mordechai Gur was asked, in an interview in the Independence Day supplement to *Al-Hamishmar* (May 10), to comment on the reported practices of the Israeli Army in Lebanon, including plunder and demolition of houses "even with no sign that they had been occupied by terrorists." His response came as a shock even to the noted Israeli military analyst Zeev Schiff, who gave this accurate summary: "In South Lebanon we struck the civilian population consciously, because they deserved it . . . the importance of Gur's remarks is the admission that the Israeli Army has always struck civilian populations, purposely and consciously . . . the Army, he said, has never distinguished civilian [from military] targets . . . [but] purposely attacked civilian targets even when Israeli settlements had not been struck" (*Haaretz*, May 15).

Gur recalled that during his thirty-year service the Israeli Army had looted extensively after its attacks on Jaffa and Haifa in April 1948, had bombed Arab villages and the Jordanian city of Irbid, finally clearing the Jordan Valley of all inhabitants, and had driven 1.5 million civilians from the Suez Canal area during the 1970 "war of attrition." "For thirty years, from the War of Independence until today, we have been fighting against a population that lives in villages and cities."

These observations, well attested in the historical record though rarely so frankly proclaimed, give some indication of the impact on Arab civilians of the long and bitter conflict, during which the Palestinians, among others, have suffered the fate that Israel justly fears, with little reaction in the West.

During the 1973 war, when Israel's survival seemed momentarily in question, Israel threatened to resort to nuclear weapons, Nadav Safran alleges, and it might well carry out this threat *in extremis*, as might its enemies. Great power tensions in October 1973 led to a worldwide U.S. nuclear alert. Given the economic and strategic significance of the region, a local conflict might easily explode into a general conflagration. Armageddon is well located.

The imminence of catastrophe was clear enough when Israel invaded Lebanon in March 1978. A Syrian response would have had incalculable consequences. The same was true a few months earlier. In a rare factual review of what transpired in early November 1977, *The Economist* (London) reported (November 19) that on November 4, the Lebanese town of Nabatiya "came under heavy artillery fire from Lebanese Maronite positions and also from Israeli batteries on both sides of the frontier—including some of the six Israeli strongpoints inside Lebanon." The attacks continued the next day, with three women killed among other casualties. On November 6 two rockets fired by Fatah guerrillas killed two Israelis in Nahariya, setting off an artillery battle and a second rocket attack that killed one Israeli. "Then came the Israeli air raids in which some seventy people, nearly all Lebanese, were killed."

It is quite possible that these events, typically described in the United States as a Palestinian atrocity with Israeli retaliation, were the immediate cause for Sadat's sudden offer to visit Jerusalem in November. Sadat too may have asked himself, as did *The Economist*: "Could the next Middle East war, and heaven knows what else, start at Nabatiya?"

The Arab-Israeli conflict is not the only potential source of disaster in the Middle East. In Senate hearings of September 1973, Henry Kissinger commented that the 1970 invasion of Jordan by Syrian forces "in my judgment got us closer to the brink of a war than some of the more highly publicized crises." A radical Arab nationalist or Russian-backed threat to the oil-producing heartland of U.S. interest in the region will not be tolerated by the United States. The Jackson Committee report underscores the obvious when it states that "threats to the continuous flow of oil through the Gulf would so endanger the Western and Japanese economies as to be grounds for general war."

The report is no less realistic in noting that "the most serious threats may emanate from internal changes in Gulf states . . . if Iran is called upon to intervene in the internal affairs of any Gulf state, it must be recognized in advance by the United States that this is the role for which Iran is being primed and blame cannot be assigned for Iran's carrying out an implied assignment." Thus "a strong and stable Iran" serves "as a deterrent against Soviet adventurism in the region" and "against radical groups in the Gulf."

But client states may still pursue their own interests or undergo internal change. Iran, the Senate report warns, may find the temptation irresistible to seize Saudi Arabian oil as its own reserves decline. "There is at present no substitute for the U.S. presence in Middle East oil," the report concludes, though the involvement of European states and Japan might be encouraged "in such ways as to diminish the polit-

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ical impact of what may well become too great a U.S. presence in the national affairs" of Iran and Saudi Arabia.

The report notes, but does not discuss, Iranian-Israeli relations, which "are conducted far from the public view," and are based on the perceived threat of "Arab radicalism." It also alleges that the Arab oil producers show some "ambivalence toward Iran's continued military buildup from the other side of the Gulf but not the total opposition often described in the Western press." The analysis seems plausible. An intricate alliance linking Iran, Saudi Arabia and Israel under the American aegis, in part tacit and in part corroded with mutual suspicion and fear, has been the basis for American control of the world's major reserves of relatively cheap and abundant energy.

The U.S. military and economic involvement, and even large-scale Iranian military intervention in counterinsurgency in the Arabian Peninsula, is regarded in the West as an entirely natural contribution to "stability." It has been a basic principle of international affairs since World War II that the energy reserves of the Middle East constitute an essential element in the U.S.-dominated global system. American policy toward affairs of the region cannot be understood apart from this fundamental principle.

The Senate report deals with Saudi Arabia and Iran. The books by William Quandt, Bernard Reich and Nadav Safran are concerned primarily with the U.S. relation to Israel (though Safran's has a broader scope). There is still no comprehensive study of U.S. foreign policy in the Middle East with a sufficiently broad scope to render specific issues fully intelligible.

Safran is certainly correct in emphasizing that the evolution of America's relationship to Israel "has been determined primarily by the changing role that Israel occupied in the context of America's changing conceptions of its political-strategic interests in the Middle East." After the Suez war of 1956, he writes, the U.S. policy of "containing [Nasser's] influence and rolling it back . . . created an obvious harmony between America's immediate objective and Israeli interests." "The United States relied in large measure on Israel to check and balance the pro-Soviet Arab states," and "to counter what seemed to it to be a series of challenges calculated to erode the American position in the Middle East." "Israel's role as a check on forces and potential developments detrimental to American Middle East interests reached a high point in the 1967 crisis." During the Jordanian crisis of 1970, "when the entire American position in the Middle East appeared . . . to be in jeopardy, the United States was able to retrieve the situation and turn it around only through the effective cooperation of a powerful Israel," an episode which "had a far-reaching effect on the American attitude toward Israel and the Arab-Israeli conflict," and incidentally led to a substantial increase in U.S. aid to Israel. Two years later the United States effectively adopted the Israeli thesis "that unequivocal American support for Israel would not, in the long run, undermine the American position in friendly Arab countries and benefit the Soviets there, because those countries needed American support against their Soviet-supported, radical, sister Arab countries as much as the United States needed their friendship."

We know from other sources that American analysts regarded Israel as a "protector" of Saudi Arabia against Nasserite influence during the 1960s. The most advanced military and technological power in the region, Israel—along with Iran—stands as a deterrent to Russian influence and radical nationalist threats. It is important to remember, as Safran points out, that the prospect of Arab unity "appeared quite remote before 1973." U.S. support for Israel was not regarded as endangering American access to (better, domination of) Middle East oil, and many specialists even believed that "there is no lack of oil elsewhere in the world" (Walter Laqueur, *The Struggle for the Middle East*). And now, despite the fabulous wealth concentrated in narrow circles in the oil-producing states, Israel, at the economic level of a European state, is rich and powerful by the standards of the region, even in comparison with Saudi Arabia, basically still a Third World country with a reported average life expectancy of forty years and a scattered population that is largely illiterate (*The Middle East*, May 1978).

The Saudi ruling elite has a stake in American dominance of the region, hence indirectly in Israeli strength. The United States has rarely taken Saudi threats very seriously, for this reason. So far this stance has been fairly well justified from the point of view of American global interests.

U.S. aid to Israel has been enormous. Prior to 1967, before the "special relationship" had matured, Israel received the highest per capita aid from the United States of any country, according to Safran, who also notes that this is a substantial part of the unprecedented capital transfer to Israel from abroad that constitutes virtually the whole of Israeli investment. During the past four years, Vice President Mondale recently stated, Israel has received $10 billion in U.S. aid, more than any other country. In the coming year, Israel is to receive nearly half of total U.S. military aid and 56 percent of the outright grants, a figure that would rise considerably if the standard waiving of repayment is considered (*The New York Times*, May 19, 1978). More than half of U.S. credits to Israel since 1974 have been "forgiven," a unique privilege (*The Christian Science Monitor*, May 25, 1978). In Iran and Saudi Arabia there are tens of thousands of U.S. technicians and military advisers. The aid and direct U.S. involvement, which takes many forms, serves to tie the regimes to the United States and support them against threats, internal or external, to U.S. interests, though the system is highly unstable and rife with internal contradictions.

Traditionally, one fuction of foreign aid has been export promotion. In the present case, military aid to Israel inspires arms purchases in Saudi Arabia, for example. The dispatch of advanced armaments to the oil producers tightens the links to the United States, which must provide technicians and advisers, helps to recycle petrodollars, and serves as an impetus for arms sales elsewhere. During the recent debate over F-15 sales to Saudi Arabia, defense analysts reported that "The precedent would almost certainly encourage other Third World countries to seek similar equipment," further stimulating the $13 billion arms export business (*The New York Times*, May 15, 1978). Meanwhile a recent Commerce Department study reported that nearly all the money paid to oil exporters has returned to the United States in bank accounts and investments (*Boston Globe*, April 29, 1978). All of these factors are relevant for understanding American policy in the Middle East.

Given the explosive potential of the Arab-Israeli conflict, particularly since 1967, it has clearly been in the U.S. interest to reduce the threat of war. Recognition of this fact has been the cornerstone of Sadat's diplomacy since his accession to the Presidency of Egypt in the fall of 1970. His policies have been based on two principles: that a comprehensive peace settlement can be achieved on the basis of the pre-June 1967 borders (the "green line"), and that the United States essentially "holds

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the cards." In February 1971 Sadat offered a peace plan through U.N. mediator Gunnar Jarring, including respect for Israel's "sovereignty, territorial integrity and political independence" and "right to live in peace within secure and recognized boundaries," freedom of navigation in the Suez Canal and Straits of Tiran, demilitarized zones along the borders, etc. At that time there was no mention of a Palestinian state; to this day, Sadat has made no clear commitment to Palestinian self-determination. Israel, in response, welcomed what it recognized as a genuine offer of "a peace agreement," but rejected it, stating that "Israel will not withdraw to the pre-June 5, 1967 lines," thus effectively terminating Jarring's initiative.

Sadat attempted in a variety of ways to gain acceptance as an American client state but was rebuffed, until the surprising Egyptian-Syrian successes of October 1973 led to a reassessment of Egypt's potential role in the American-dominated Middle East system.

American policy for the past ten years has oscillated between a position exemplified by the Rogers Plan, calling for a peace settlement on the green line with "insubstantial" modifications and what should be called "the Kissinger Plan," namely, support for Israel's slow expansion in the occupied territories leading to ultimate integration of substantial portions within Israel. The latter programs are analyzed in an outstanding study by Amnon Kapeliouk (*Israël: la fin des mythes*, Albin Michel, Paris), which was unfortunately unable to obtain an American publisher. None of the books under review deal with this topic in any detail.

Sadat's misfortune was that his attempt to enlist the United States in the search for a general peace settlement conflicted with the growing perception in Washington that Israel served as a bulwark for U.S. interests. The October 1973 war was a direct consequence, one of the many disasters that can be attributed in part to Kissinger's narrow vision and incomprehension of international affairs. A major consequence of Kissinger's "shuttle diplomacy" after the October 1973 reassessment was to remove Egypt from the conflict, thus permitting the Israeli programs of expansion to continue. Kissinger's efforts are presented in detail in several of the books under review, with much admiration, but their basic import is missed. Despite rhetorical objections, the United States continues to support the Israeli programs in practice. Next year's Israeli budget proposal recommends a 30 percent increase in real terms in development beyond the green line (*Emda*, Tel Aviv, April 1978), financed, in effect, by the American taxpayer.

There is a growing international consensus that peace is possible in roughly the form outlined by Sadat in 1971, but the United States stands aloof. In January 1976 the United States vetoed a Security Council Resolution along these lines, backed by the USSR and the Arab states. Quandt, Reich and Safran mention the debate but ignore its contents and significance. It is fairly clear that Israeli withdrawal to something like the green line will lead to a Palestinian state organized by the PLO, which has approximately the status and legitimacy of the Zionist Organization in 1947. Within the mainstream of Israeli politics, there is a general refusal to accept any meaningful recognition of Palestinian national rights, and with the United States backing this position, it will stand. The consequence will be military confrontation with all that it entails, the danger of war for those directly concerned and the world at large, and the corrosive effects of militarism, chauvinism and intensifying hatred in the societies.

The immediate backgrounds of this situation, but not these conclusions, are discussed by Reich, Quandt and Safran. Reich's *Quest for Peace* is a narrowly focused, well-researched diplomatic history giving a virtually day-by-day account of U.S.-Israeli interactions from 1967 to '76. Its assumptions are the standard ones in American foreign policy studies. Thus the "American assumption of responsibility in the Middle East" is taken as the natural order of things (would one speak in the same way of "Russian responsibility in Eastern Europe"?), and U.S. policy is generally described in defensive terms: averting "hostile domination" or a Russian "expansionary role in the Middle East." Though there is little attempt to explore issues in any depth, the work is nevertheless useful as a reference.

Reich's final conclusion is that "the euphoria that characterized U.S.-Israeli relations in much of the period between the June and October wars has been replaced by a greater uncertainty," though the "special relationship" persists. That seems an accurate assessment. The reasons are easy enough to discern through the veil of alleged moral concerns and idealistic support for freedom and democracy. In an earlier footnote, Reich cites Moshe Dayan's August 1973 observation that "The total balance of force is in our favor and this outweighs all other Arab considerations and motives. . . ." Israel will "forge ahead" in the coming years. These assumptions were shared in the United States. Quite generally, American support for Israel corresponds to perceived Israeli strength and usefulness in maintaining U.S. interests in the Middle East.

Quandt surveys the same decade, in less detail, bringing out the central issues somewhat more clearly. Currently in charge of Middle Eastern affairs on the National Security Council staff, where he also served in 1972-74, Quandt relies on public sources for the most part and gives an often enlightening account of evolving American strategies. Again, the analytic perspective is limited. Quandt concentrates on "the key role of the President and his advisers." He is skeptical of analyses that do not emphasize such factors as "the psychology of decision making," about which he has nothing to say. Americans are said to value a certain "type of stability," nowhere analyzed, and the government prefers regimes "viewed as moderate, status quo powers." The term "moderate," as he points out elsewhere, simply means "pro-American," and he does not explore the vision of the status quo that the government seeks to preserve. Presumably, it does not include the status quo in Cuba or Eastern Europe, for example.

Quandt is also skeptical of attempts to find "the 'real causes' behind events" and "nonobvious connections" as in what he calls "Marxist approaches," which "often fail lamentably," he claims, "from the standpoint of science and psychology." It is unclear what he means by "Marxist approaches" and he tells us nothing about "the standpoint of science and psychology." Specifically, "United States support for Israel has also been difficult for Marxists to explain," presumably because this support allegedly does not accord with "the concrete economic interests of the United States in the Middle East," which "lie in the Arab world, not in Israel."

This kind of rhetoric merits comment only because of its prevalence in academic social science. No "Marxists" or "Marxist approaches" are ever identified, though Quandt outlines the gyrations that "Marxists" are driven to in an effort to defend their theories, which he claims are "simply indefensible on empirical grounds." Without awareness of the self-contradiction, he himself provides empirical grounds for these theories and in fact reaches conclusions akin to those he ridicules, in scattered and unsystematic remarks.

For example, Quandt's unnamed "Marxists" argue that U.S. policy should "try to minimize the United States relationship with Israel and to concentrate

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its attention on the Arab oil-producing states instead." He concedes that "American policy throughout the 1950s followed this pattern rather closely." But he thinks that a problem arises for "Marxists" in that from 1967, "despite the growing importance of Arab oil, United States support for Israel increased enormously." Quandt's "Marxists" therefore seek a "new explanation," claiming that "by defeating Nasser, Israel opened the way for the conservative Arab countries such as Saudi Arabia, Libya and Kuwait to use their financial resources to neutralize the threat to their societies from Nasser's Egypt."

Note first that it would be a rather stupid "Marxist" who would not offer this "new explanation" as an application of the same theory to changed circumstances: the theory that the United States seeks to maximize its control over energy remains intact. What of the validity of this "new explanation"? Though Quandt seems to be dismissing it, he nevertheless notes that the Chief of Israeli intelligence, visiting Washington in May 1967, gained the impression that "If Israel were to act on her own, and win decisively, no one in Washington would be upset," and that it was feared in Washington that "any increase in Nasser's prestige would eventually bring pressure to bear on the oil-rich Arab countries, such as Saudi Arabia and Libya"; evidently, Israel's victory substantially diminished Nasser's "prestige." In a backhanded way, Quandt appears to accept the "new explanation" as reasonable, thus confirming the unchanged "Marxist theory" from which it derives.

Quandt's logic, throughout this discussion, is deeply flawed. He argues that one might suppose policies to be based on "a stable national interest" insofar as they "seem invariant," but that policy reversals defy such analysis. Here one must, he claims, turn to public opinion, cultural style, the psychology of decision making, etc. But without reference to these factors, one might argue consistently that as the situation changes —for example, after the Israeli victory of 1967 or its service to the American cause in 1970—the very same "national interest" dictates policy reversals. Quandt's rejection of a "national interest" perspective (itself a mystification) in favor of nebulous cultural and psychological factors is without empirical or logical grounds. His "case studies" contain much of interest, but remain in effect unanalyzed.

Quandt concludes by citing the 1975 Brookings Institution study as a possible "framework for peace." This study (endorsed by Brzezinski, among others) called for Palestinian "self-determination" and a settlement essentially along the green line, in accord with the general international consensus, a position so far rejected by the American Government, and of course Israel.

Safran's book is an ambitious review of American-Israeli relations and of the social, political, economic and military history of Israel. Safran is less reserved in drawing general conclusions than Quandt or Reich. Some of these have already been noted. Often his conclusions seem to me to have merit, but he offers so little documentation that they carry little conviction. One would like to know more about the nature of the evidence, e.g., that the intervention of Transjordan in the 1948 war "provoked other jealous Arab countries to send in their armies as much to block its expansion as to fight the Jews" or that Israel threatened to employ nuclear weapons in October 1973, raising the haunting prospect in later years that U.S. pressure might drive it "to resort to a nuclear strategy."

Safran too was a signer of the Brookings Institution report, but he does not evaluate its prospects in the light of Israel's interest "in a settlement only to the extent that it would satisfy certain undefined territorial demands that it deemed essential for its national interest," and its refusal to contemplate any meaningful form of Palestinian self-determination. He foresees a "severe confrontation between the Carter administration and the new [Begin] regime in Israel." He does not examine the likelihood that the United States will modify its tacit support for Israel's expansionist policies or, indeed, the opportunities available in view of possible consequences, given Israel's military capacities and options, a matter that has caused some concern in the Pentagon, to judge by recent articles in the *Armed Forces Journal*.

Safran's lack of appreciation for the plight of the Palestinians is evident throughout. Thus he writes of "the broad humanitarian impulse that had moved statesmen in London to adopt a decision of principle in favor of the Jews" in issuing the Balfour Declaration, and explains U.S. support for Israel on grounds of the "long tradition of sympathy for peoples striving for nationhood and independence generally and for persecuted peoples in particular" —so well exemplified in Latin America and Southeast Asia, for example. Why "humanitarian" commitments and sympathy for persecuted peoples do not manifest themselves in a concern for the inhabitants of Palestine in 1917 or their scattered and oppressed remnants today, he does not explain. In fact, all of this talk is standard academic sentimentality and ideological claptrap.

Similarly, in discussing Israeli policy toward the Arabs, Safran notes the expropriation of Arab lands and the fact that 92 percent of the area within the green line is administered by the National Land Authority, but fails to add that this authority is, by law, under the control of the Jewish National Fund (JNF), which is committed by its charter to actions "beneficial to persons of Jewish religion, race or origin," which puts matters in a rather different light. He notes that JNF deeds preclude hired labor, but there is more to the story, which has been very little studied. Copies of leases have proven difficult to obtain, but it is a fact that some, at least, specifically prohibit only non-Jewish labor, a crucial difference. His statement that Israel "has no masses of land-hungry peasants confronting a few big landowners" is technically correct; dispossessed Arab peasants are a minority, not a mass, of the total population, and it is the JNF-controlled Land Authority, not private landowners, that they confront. But the statement is surely misleading. His further claim that by the early 1960s, though Arabs "still suffered the agonies of identity and alienation" they "made up a generally free, prosperous, healthy, educated community" is difficult to reconcile with the few studies that have actually dealt with the forced proletarianization of Arabs, the complex network of devices that direct development funds and restrict land use to Jews, the state of Arab education, and other crucial matters that Safran ignores, though there is a sparse literature on the subject (e.g., Sabri Jiryis, *The Arabs in Israel*, Monthly Review).

Safran's investigation of international affairs, while unusual in its attempt at fairness, still suffers from the pro-Israel bias of most of the English-language literature. Consider, for example, his account of the events leading to the 1956 Israeli-French-British attack on Egypt. He notes that Nasser's attitude shifted in 1955-56 "from one of apparent moderation to one that seemed bent on mobilizing Egypt's military resources and leading the Arab countries in an assault on Israel"; the apparent willingness of the Arab states "to accept a Jewish state" changed in the mid-1950s to a commitment "to eliminate that state." He offers no explanation for this change in attitude. Nasser repeatedly identified the Israeli raid in

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the Gaza strip in February 1955, shortly after Ben-Gurion's return to office, as the occasion for his policy reassessment (Kennett Love, *Suez*, McGraw-Hill).

Safran does cite the "raid on Gaza in which nearly forty Egyptian soldiers were killed" (and also, Love reports, civilians, including a 7-year-old boy), but describes it as "retaliation" for the hanging of two saboteurs of an Israeli ring engaged in arson and bombing in Egypt. He states that it only became known six years later that "the spying-sabotage adventure had in fact been mounted by Israeli intelligence." But surely the Israeli Government knew that the Egyptian charges were valid, despite the public show of outrage. Extracts of Prime Minister Moshe Sharett's journal published in Hebrew in 1974 indicate that he understood what had happened (Livia Rokach, *Le Monde diplomatique*, April 1978). Safran's explanation of the Gaza raid as "retaliation" is entirely unconvincing. Here, as elsewhere, the failure to cite relevant documentary evidence is a serious flaw.

Safran again ignores crucial documentary evidence when he reports fedayeen terror raids and Israeli retaliation prior to the outbreak of the 1956 war (similarly Reich). The Israeli Arabist Ehud Yaari published an important collection of captured Egyptian and Jordanian documents (*Mitsrayim vehafada'in*, Givat Haviva, 1975) which offers strong support for the thesis advanced by Love, based on Arab sources, that Egypt had been making strong efforts to prevent infiltration prior to the Gaza attack, and that the fedayeen groups, organized only after the Gaza raid, were again controlled in the summer of 1956 in an effort to calm the border. This material has yet to be discussed in the English-language literature, to my knowledge, though Amnon Kapeliouk has written about it in *Le Monde*. It simply will not do merely to state, as Safran does, that the sabotage and terror attacks of the fedayeen organized by Egyptian intelligence in 1955-56 "contributed significantly to Israel's decision to go to war in 1956 and was the principal reason for its refusal to evacuate the Gaza Strip until it had obtained some international assurances that fedayeen action would not be renewed." This is far from the whole story.

Uri Davis is an Israeli anti-Zionist who was jailed in the 1960s for participating in the resistance of an Arab village in the Galilee to the expropriation of its land, under the guise of military necessity, for the establishment of the city of Carmiel from which Arabs are excluded. He describes his *Utopia Incorporated* as an "anthropological study." It is carefully documented from Hebrew-language and other sources, and includes a glossary with valuable information on Israeli institutions, some personalities, and other topics. He presents a revealing "kinship analysis" of leading elements in Israeli society and an analysis of industrial and economic structure.

Bitterly critical of the entire Zionist enterprise, Davis presents a scathing indictment of Zionist ideology, institutions and culture. He describes the opposition to the rescue of European Jews except within the context of Zionist aims. The *kibbutzim* he regards as providing the "managerial elite of the Labour Zionist effort," relying heavily on "Oriental-Jewish hired labour from the surrounding *moshav* and development town hinterland," and more recently Arabs. He provides statistical data and press accounts of working conditions. He believes that the Oriental Jews are permanently relegated to second-class status, their culture and history obliterated, and sees them as potential allies for the Palestinian movement if the latter can change its political character in a socialist-internationalist direction—a doubtful prospect. Davis regards Israel as "a completely dependable local ally to the United States," though not necessarily a "docile" ally, because of "its position as a colonial society in confrontation with a native Palestinian-Arab population and the neighbouring Arab states." He expects it to play a central role if the United States determines to intervene directly in the oil-producing regions.

Given the prevailing political culture in the United States, such studies as this are unlikely to be granted any attention. That is a pity. Whether one agrees with the thrust of Davis's analysis or not, it is a serious and provocative study, which will repay careful scrutiny.

One can hardly view the prospects in the Middle East without grim forebodings. The United States shows little inclination to recognize Palestinian rights, specifically, the right of national self-determination and is, for the present at least, not under serious pressure from the Arab states to change its stance in this regard. With staunch American backing, Israel will no doubt continue to temporize, on the assumption that after "seven lean years," as Prime Minister Rabin used to say, the significance of the Arab oil will decline and Israel will remain as an advanced industrial society, closely tied to the Western capitalist democracies and the most viable society in the Middle East. How it will come to terms with a growing Arab minority remains to be seen. The temptation to "encourage" emigration will very likely increase. "Transfer" of the population has long been a motif of Zionist thinking, and Arab hostility and terror will continue to provide excuse and opportunity. The successive waves of expulsion, often but not only in the course of war, offer a precedent that will seem ever more appealing as the bitter conflict persists.

For the Arab world at large, the future also looks very dim. In an interview published in Beirut, French economist Maurice Guernier, one of the founders of Organization for Economic Cooperation and Development and the Club of Rome, offered a grim prognosis (*An-Nahar Arab Report and Memo*, April 17, 1978). If the wealth of the oil states is not invested for industrial development in the next thirty years, he warned, the Arab world may not survive into the 21st century. This "is the region with the fewest resources in water and in cultivable land" and is even now incapable of feeding its rapidly growing population, many living in subhuman conditions. Even Saudi Arabia "will cease to exist" if current tendencies persist, while Egypt faces imminent disaster. The Arab world, and Africa as well, are "heading for tragedy." The situation is far worse even than India, "catastrophic enough." A rational investment policy in the next few decades might avert disaster, but nothing of the sort is being pursued and the persistence of the Arab-Israeli conflict, not to speak of the abominable internal social organization of the Arab states, virtually precludes the required effort. In a generation there may be a tragedy of colossal proportions as the Arab world, impoverished and lacking basic resources, will have lost its sole opportunity to enter the stage of modern history or even to guarantee survival for hundreds of millions of people.

Israeli writers have warned of a "Samson complex"; Israelis will die with the Philistines, if need be. As the scale of the impending disaster becomes clearer in the coming years, Arab states armed to the teeth by the superpowers may also decide to bring down the Temple walls.

Apart from considerations of simple humanity, even narrow self-interest dictates that the Arab-Israeli conflict must be settled, with the recognition and safeguarding of the national rights of Palestinians and Jews. This will offer

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no guarantee, surely, of lasting peace or justice, or of sane policy within the few years of grace granted the Arab world. But it will at least eliminate one fundamental barrier to decent existence and to the efforts that are essential if disaster is to be avoided. □

THEATRE

JULIUS NOVICK

Battles for survival are never finally won, but the American resident theatres are holding their own. Most of them were founded, or installed in expensive new buildings, during the economic boom of the 1960s; it is amazing how few of them were forced into bankruptcy during the recession-*cum*-inflation of the 1970s. New theatres are still springing up (the Alaska Repertory Theatre has just completed its second season), and existing theatres are expanding. The question of mere existence has for the moment been settled, and now the best of these theatres are developing their own distinctive identities.

Consider, for example, the Center Theatre Group/Mark Taper Forum in Los Angeles and the American Conservatory Theatre (ACT) in San Francisco. These are not fledgling enterprises struggling for a foothold; they are very large, very solid institutions, with close ties to people who exercise real civic power. The Taper has 26,000 subscribers, and a budget of some $3.1 million; ACT, in a smaller city, has 21,300 subscribers and a $4.5 million budget. And these two large, successful theatres represent very different ideas of what a resident theatre should be.

Gordon Davidson, the artistic director of the Taper, has a Hollywood smile and plenty of warmth, valuable assets in an artistic director's endless tasks of money-raising and fence-mending. But behind the easy charm lurks an old-fashioned liberal idealist, very much aware that the theatre is supposed to serve a social function. Idealism, of course, can have its drawbacks, in the theatre as elsewhere; over the years Mr. Davidson has shown a weakness for producing worthy, wordy, sententious, often dull documentary pieces concerned with Burning Issues of Our Times: *The Deputy* by Rolf Hochhuth, *In The Matter of J. Robert Oppenheimer* by Heinar Kipphardt (American première), *The Trial of the Catonsville Nine* by Daniel Berrigan, S.J. (world première). But it is still an impressive feat to have developed an audience that will sit still for difficult plays, an audience ready for something more than a jig or a tale of bawdry. And Mr. Davidson is not a narrow idealist; he has also produced *Godspell*, *The Dybbuk* and *Once in a Lifetime*, along with Shaw, Chekhov, O'Casey, and (repeatedly) Shakespeare. Moreover, the Taper is serious about new American plays. It has no less than three subsidiary programs that work with new material, and plays developed in each of these programs have been presented in the subscription series.

Lately Mr. Davidson has been searching for ways to respond specifically to the fact that the Taper is in Los Angeles. Last season he produced, in repertory, *A History of the American Film* by Christopher Durang and *Angel City* by Sam Shepard, two plays about Hollywood by young American writers. *Concrete Dreams* by Doris Baizley, performed for young people by the Taper's Improvisational Theatre Project, takes place at the intersection of the Santa Monica and San Diego Freeways; the characters, caught in a traffic jam, escape by moving in time rather than space, which gives them a chance to explore both the history and the future of that particular piece of West Los Angeles. The Taper is also probably the only theatre in the country with a trained anthropologist on the staff; he was hired last July to find ways of opening doors to the various minority groups in the area.

All these concerns reached a focus in the production that occupied the Taper when I passed through Los Angeles in May: a new play called *Zoot Suit*, commissioned by the Taper and presented in its "New Theatre for Now" subscription series. It was written and directed by Luis Valdez, the founder and leader of El Teatro Campesino, the celebrated theatre of the United Farm Workers.

The backdrop for *Zoot Suit*, designed by Robert J. Morales of El Teatro Campesino, is a huge composite newspaper front page, carrying such headlines as "WEB OF ZOOT SUIT GANG SPREAD," "44 Zooters Jailed Here," "SLEEPY LAGOON CASE—CLOSED." The play is based on two events that occurred in Los Angeles in the early 1940s. In the Sleepy Lagoon case, a group of young Chicanos were found guilty of a killing they did not commit, and sent to San Quentin. (The chairman of the Sleepy Lagoon Defense Committee was Carey McWilliams, former editor of *The Nation*; his help with the play is acknowledged in the program.) The Zoot Suit riots occurred a few months later, when some soldiers and sailors went on a rampage, tearing zoot suits—sharply tailored symbols of young Chicano swagger—off Chicano youths in the streets.

Four or five nascent plays are struggling, like cats tied up in a sack, to emerge from *Zoot Suit*. The part that deals with the Sleepy Lagoon frame-up is full of the hackneyed situations and hackneyed rhetoric of traditional liberal-radical indignation: the Scottsboro Boys in Los Angeles, as it were. I am willing to believe that it is all essentially true, but this overfamiliar, schematized way of telling the truth leaches the immediacy, the significance out of it.

Elsewhere, *Zoot Suit* seems to be about the relationship that develops between one of the imprisoned Chicano boys and the young Jewish woman who is executive secretary of the Defense Committee, or perhaps about that same Chicano youth and his rivalry with his soldier brother. There is also among the defendants an Anglo boy who grew up among Chicanos and insists that he is as Chicano as everybody else—I'd have liked to know more about him. And the boy from the barrio who has made it in the movies: where does *he* stand in relation to his old friends and neighbors? And what about the Zoot Suit riots themselves? They make a startling theatrical moment—Mr. Valdez has a gift for vivid stage imagery—but what specifically did they have to do with the boys who were framed for the Sleepy Lagoon killing? Nothing in *Zoot Suit* is fully explored; dramaturgically, the thing is a mess.

But as Harold Clurman once wrote in *The Nation*, "A play is not a document; it is an *address*; the first consideration must be the relevance to the audience for which it is performed." Hundreds of thousands of Mexican-Americans live in the barrios that stretch eastward from downtown Los Angeles. A play on *this* subject, in *this* place, does not have to be very good by absolute standards in order to say something to people. Or, to put it another way, *Zoot Suit* is functionally a better play in Los Angeles than it could be anywhere else.

And it is strongest precisely when it is most local, when it stops trying to resemble an ordinary American court-

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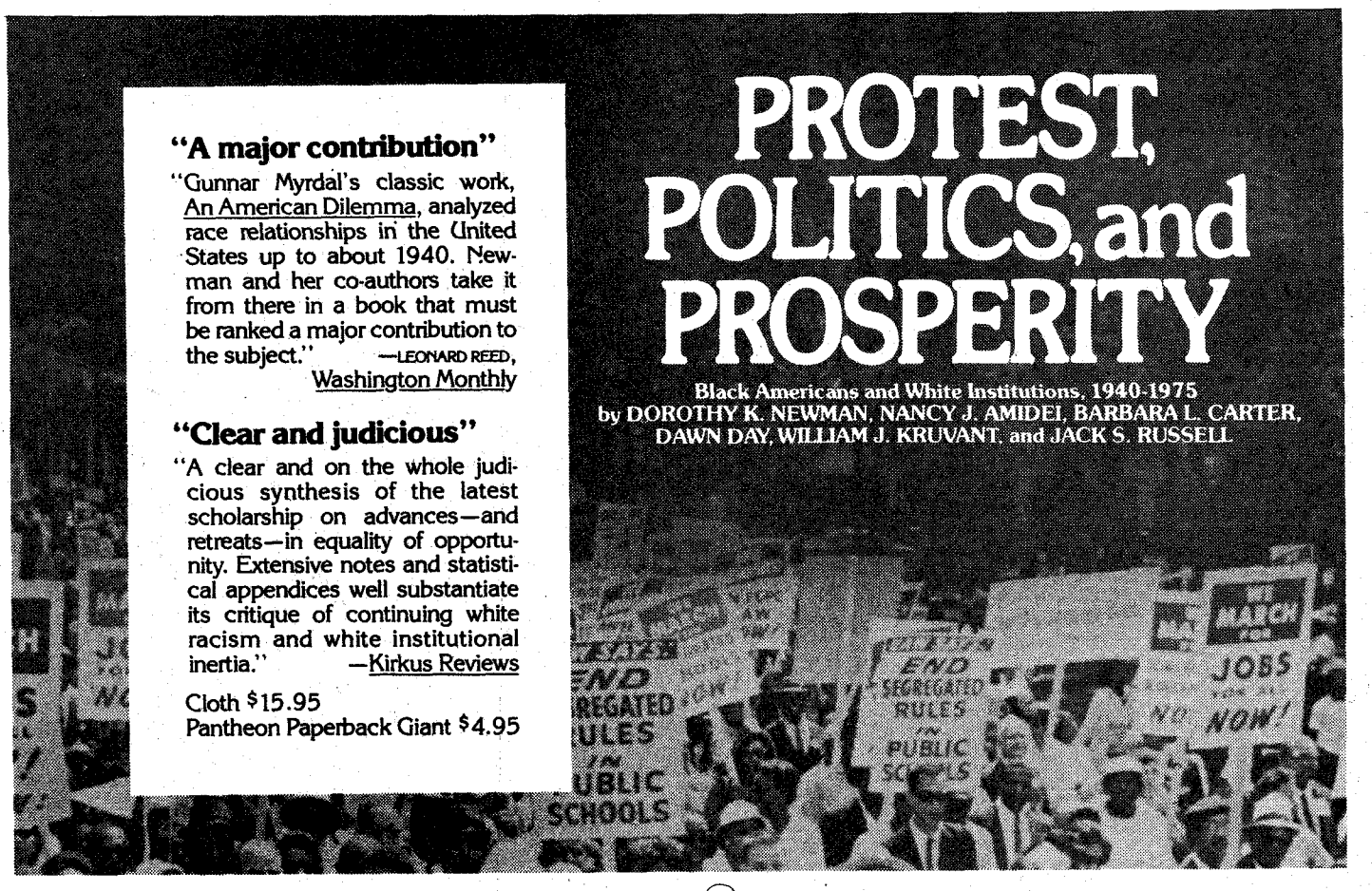
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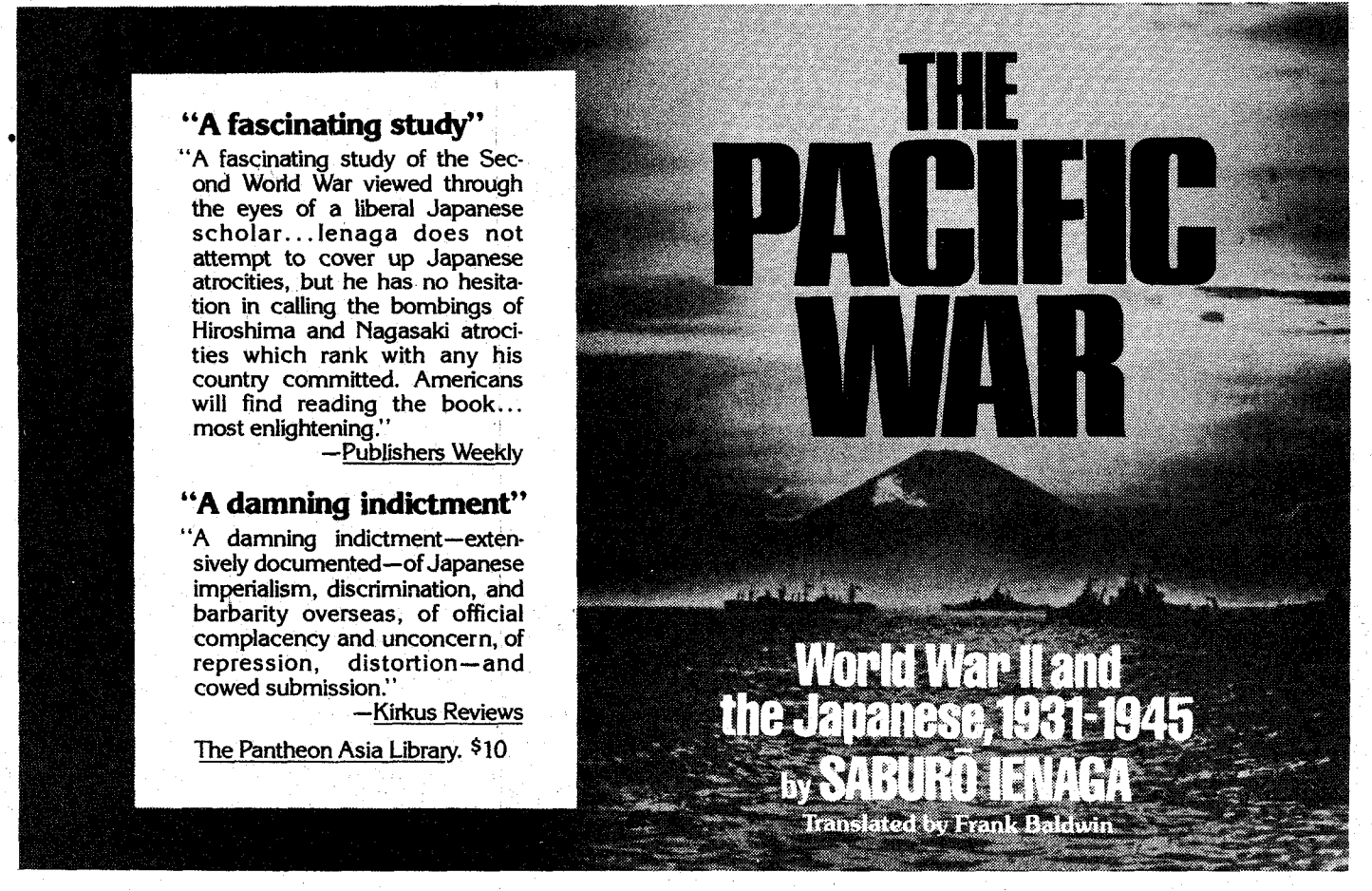
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room propaganda play, or an ordinary American domestic drama, and concentrates on what is specifically Chicano. The one real and triumphant theatrical achievement of *Zoot Suit* is its evocation of the culture of the *pachucos*, the tough kids who wore zoot suits if they were boys and tight skirts if they were girls, who danced to *pachuco* music and, yes, had gang fights, and who used to pile into old cars to go drink beer and have fun at places like Sleepy Lagoon.

The best thing in *Zoot Suit* is the arresting image of El Pachuco himself, an allegorical figure created by Mr. Valdez to stand for the spirit of *pachuchismo*. His zoot suit has padded shoulders, pegged pants, and a key chain that swings down past his knees. He narrates and comments ironically, cynically; he sings and dances. Edward James Olmos plays him as boldly as he was written and staged by Mr. Valdez, right out to (but not over) the edge of caricature.

El Pachuco and his friends showed me something I had never seen before: Chicano *style*. El Pachuco represents a self-image, analogous to the young black "bad dude," made by young Chicanos determined to feel sexy and dazzling and proud of themselves. Finally, El Pachuco is what makes *Zoot Suit* something more than just another of Gordon Davidson's good intentions.

The play sold very well during its two-week limited engagement, and for a change there were a substantial number of Chicanos in the Taper audience. In August *Zoot Suit* will be brought back as the first production of the Taper's regular 1978-79 subscription season. It will probably still be a dramaturgical mess. But the Taper's white, middle-class subscription audience will see a face of their city that most of them know virtually nothing about.

Gordon Davidson is an idealist; William Ball, founder and general director of the American Conservatory Theatre, is also an idealist, but of a very different kind. Mr. Davidson, if I understand him, believes in the theatre as a direct influence on social and political life; Mr. Ball, if I understand him, believes that the theatre can best influence life by functioning as an *alternative* to it. "We are here," he has said, "to imagine, to play. . . . The artist knows that if we imagine the unknown to be something, it will be something." Mr. Davidson's idealistic yearnings are focused mainly outward, toward the larger community; Mr. Ball's are focused primarily inward, toward the theatrical community he has created that is ACT. It is the old distinction between art as a social force and art for art's sake.

There is no permanent company at the Mark Taper Forum. Productions are cast ad hoc from the large pool of actors attracted to Los Angeles by the film and television industries. ACT, by contrast, has a company of forty-four resident actors who work together on a season of nine major productions in real rotating repertory. Repertory is famously good for actors, and many American theatres have striven toward it, but it is fiercely expensive, and ACT is one of the very few genuine repertory theatres in the United States.

The acting company, moreover, is maintained in complicated symbiosis with ACT's Conservatory, which offers everything from part-time courses for children and adults to a rigorous full-time three-year professional training program for young actors. In the Conservatory, company members both teach classes and take them; third-year full-time Conservatory students are members of the company, and some of them play substantial roles in major productions.

The current ACT company is very strong. Young actors will go to all sorts of places for very little money, so most resident theatres have at least a few talented youngsters on hand; the problem is to find mature actors who are willing to work for noncommercial salaries or, conversely, to find enough money for salaries that mature actors will find attractive. At ACT it is a great pleasure to watch William Patterson and Sydney Walker, two admirable, versatile performers with more than sixty years of stage experience between them; they bring to the ensemble the solidity that only first-rate elder actors can provide. On the other hand, some of the third-year Conservatory students play major roles on the big stage with professional assurance.

The question is, what use is being made of this excellent company? My feelings about that are so complex that I would like to put the matter in the form of a dialogue between myself (*A*) and myself (*B*).

(*A*): When I was in San Francisco, the repertory consisted of *Travesties* by Tom Stoppard (held over from the previous season), *The National Health* by Peter Nichols and *Absurd Person Singular* by Alan Ayckbourn—three contemporary English plays that have long since been done in New York and many other places around the country—plus *Hotel Paradiso*, a French farce, by Feydeau and Desvallières. Now, these are all excellent plays—much better plays than *Zoot Suit*, God knows—and ACT performs them very well, with that special comic nimbleness that has always been an ACT characteristic. And why should San Francisco care that a play has been done in New York, if it is new to San Francisco? Still, there is an imbalance here. *Three* contemporary English plays? Even considering the season's other plays—*Julius Caesar* (Shakespeare), *The Master Builder* (Ibsen), *The Circle* (Maugham), *A Christmas Carol* (adapted from Dickens) and *All the Way Home* (Tad Mosel)—this is pretty safe programming. No wonder ACT is so despised in avant-garde Bay Area circles as a comfortable bourgeois theatre.

(*B*): Of course ACT is a bourgeois theatre. What other kind of theatre could play, in America, except to the tiniest of audiences? (Well, El Teatro Campesino among the farm workers, but that is a lonely exception.) Even the adventurous Mark Taper Forum is a bourgeois theatre, financed by bourgeois money (and plenty of it), playing to bourgeois audiences. It could not survive if it made those bourgeois audiences more uncomfortable than they were willing to be made.

(*A*): And yet, does ACT have to be quite *so* comfortable? The plays in the spring repertory were advertised as "'Comedy tonight!'—and tomorrow and tomorrow!," and audiences came to them in just that spirit. All three British plays have something pointed and substantial to say, even to San Francisco; but was San Francisco ready to hear? *Absurd Person Singular* is at once a hilarious farce and a bitter social commentary. It ends with two of its characters subjecting the other four to grotesque humiliation by means of a silly party game. Afterward, someone in the audience was heard to say cheerfully, "We're going to try that game at Christmas." At *The National Health*, the audience clearly preferred the broadly funny parody scenes to the somber naturalistic ones, "It was grim," a lady said at the end, in reluctant disapproval. "Beautifully done, but grim."

(*B*): Well, *The National Health* clearly wasn't comfortable for *her*. But anyway, the plays were *there*, in productions that did not blunt their keenness. Allen Fletcher's ACT staging of *Absurd Person Singular* made the play's bitter pathos more pointed than it had been in New York. The plays were *there* for anyone who had eyes and ears. Is a theatre responsible for its audiences?

(*A*): Ultimately, yes!

(*B*): Come *on*.

(*A*): Well, let me take another tack. Like so many theatres nowadays, ACT

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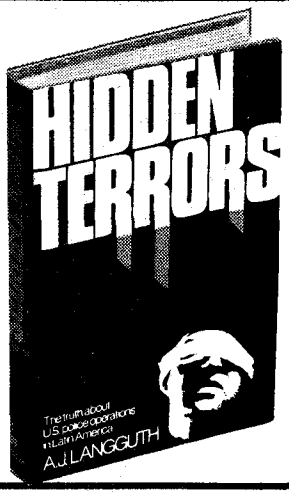
has a program of new plays in workshop productions, but it is not really serious about new scripts the way the Taper is. There were no new scripts among this season's major productions —and only one American play of any vintage (two, if you count the adaptation of *A Christmas Carol*). What ACT was doing, this spring anyhow, was essentially reproducing in San Francisco what had previously been done elsewhere; it was not creating something of its own. That is an honorable function for a theatre, but not the highest function.

When I left Los Angeles, the Taper was rehearsing for the world première of *Black Angel* by Michael Cristofer, the third of Mr. Cristofer's plays (after *The Shadow Box* and *Ice*) to begin its career at the Taper. Now, even though *Shadow Box* won the Pulitzer Prize, Michael Cristofer is not the greatest playwright in the world. But he is not without talent, and that ongoing relationship between a playwright and a theatre stands for something. It's an attempt by a specific theatre to *give* something to the theatre at large, to make a creative contribution.

Of course this creative contribution is not necessarily a matter of doing new plays; for years Mr. Ball has seemed to be working toward a special ACT production style, very extrovert and physical. But this season he took a sabbatical from directing, and anyhow the plays this spring did not give scope for much creative freedom. It was Mr. Ball who wrote about imagining the unknown; there was not a whole lot of that going on in his company when I was in San Francisco. Maybe next year, when Mr. Ball is scheduled to direct *The Winter's Tale*. . . . Meanwhile, I had more fun at ACT, but I think that what the Taper is doing is ultimately more important.

(*B*): But yet (again yet) do you remember the last act of that student matinee of ACT's *Hotel Paradiso*? The amiable but thickheaded M. Martin (Sydney Walker, looking like a cross between a crow and a walrus) appears in the living room of M. Boniface (Raye Birk, nimbly furtive, a virtuoso of comic timing), ready to spill the beans about M. Boniface's night at the Hotel Paradiso. If he does, all will be lost, and there seems to be no way to stop him. But wait! M. Martin is articulate enough in ordinary circumstances, but he stutters uncontrollably when it rains. And the sky outside the window of the set is growing dark. You could feel the delight, the comic suspense, rising in those kids as they realized what was happening. As the storm broke, just in time, and M. Martin began to stutter incomprehensibly, and M. Boniface was saved, they burst out into laughter and applause—not cruel laughter at the stutterer but pure, happy laughter at the preposterousness, the *theatricality* of the contrivance. Those kids did not "learn" anything in the usual sense from *Hotel Paradiso*, but they learned that they themselves had the capacity to be delighted by something purely thearical. Surely that is a lesson worth learning—the lesson that must precede all the others that the theatre can teach. □



A C.I.A. cover operation that brought brutality and chaos to South America

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FILMS

ROBERT HATCH

Robert Altman's *A Wedding* is a big-budget picture with a small-minded view of the world. It is a gossipy work, filmed with the arrogant intimacy of society reporting, telling us a great many things about the people engaged in the ceremony—invariably, as I recall, to their disadvantage—but offering none of the insights that might encourage us to think we know them. What seems to have motivated it—though this is hard to believe—is the notion that all of us sitting there in the $3 and $4 seats will appreciate the chance to sneer at a mixed bag of rich vulgarians pretending with no success at all to be as genteel as we are. It is notorious, of course, that nothing so pitilessly strips off a veneer of breeding as a formal occasion for which caterers, florists and party expediters are given blank checks and free hands by their untutored employers. Surely Altman doesn't think that worth the demonstration? Perhaps cruelty is the stimulus.

As, for example, the film opens in the church, where the Episcopal Bishop (John Cromwell) is presiding. He is a failing old man and, having started bravely with "Dearly beloved," soon loses his way in a ritual he must have performed hundreds of times. Forgetting the names of bride and groom, dropping the rings, calling repeatedly on an aide to set him right, he is sensible enough only to know that he is humiliating himself. I believe we are intended to laugh at Bishop Martin, but it is a kind of humor I associate with the years of acne.

Once the wedding party arrives at the home of the groom (an odd switch of convention that is not explained), skeletons begin falling out of closets as though it were Halloween. Predictably, drunkenness sets in, but there are also narcotic addiction, domestic brutality, medical malpractice, mentally deficient nymphomania, middle-aged satyriasis, along with intimations of homosexuality, male and female. Plausibility is heedlessly strained for the sake of bizarre incident. The groom (Desi Arnaz, Jr.) has an Aunt Clarice (Virginia Vestoff), one of those flat-heeled, good-works maiden ladies of independent views who are the pet and despair of many families. Much fuss is made because her wedding present has not arrived; eventually it does, and is revealed to the assembly—a life-size, full-length portrait of the bride (Amy Stryker), nude but for a wedding veil. Loud cheers and shocked gasps, and I don't for a moment believe such a woman would dream up such a gift—or that, a moment later, the bride would strip herself and pose in juxtaposition with the painting. It is a gag to fill out the time.

After the reception has degenerated from embarrassment (none of the invited guests showed up) to stupor, the

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newlyweds' Mercedes—gift of the bride's father, a truck driver turned trucking magnate (Paul Dooley)—is seen departing unsteadily down the long driveway; moments later, it is seen again at a crossroads, crushed beneath a blazing gasoline truck. Consternation and horror back at the house—but then bride and groom appear at the head of the stairs, the young man having finally been sufficiently sobered to make his departure. Joy all around, but what of the occupants of the death car? The driver, it seems, was the groom's roommate at military school, a dissident type who had arrived at the party late and on a motorcycle. Who his companion was I am not certain, or whether he had one. Anyhow, the day is saved. Altman dislikes vulgar people, but that's carrying malice pretty far.

A Wedding is full of screen celebrities, but the star of stars is Lillian Gish, playing the groom's maternal grandmother, who these many years has held a threat over the groom's father (Vittorio Gassman), an Italian of excessive charm and dubious antecedents. She dies quietly in her bed during the first fifteen minutes of the film—an astute old lady. □

MUSIC

DAVID HAMILTON

In any season, I hear quite a few musical events that, for one reason or another, don't make their way into these columns. Some of them, naturally, turned out to be not interesting, or to be poor in uninteresting or obvious ways. Others were rewarding but didn't fit comfortably into the concerns of then-current columns, or took place subsequent to a column in which mention would have been apposite. In many cases, the message is simply that so-and-so presented a concert marked by skill and perception; what I can tell you, mostly, is that you should hear him next time—or catch his recordings (and I try to call attention to these).

Many such events are more or less predictably excellent: the consistently lively and professional work of such groups as Speculum Musicae and the Da Capo Chamber Players in the 20th-century literature, the playing of soloists such as Alfred Brendel (a fine Schubert recital at Carnegie Hall in April) or Itzhak Perlman (playing Beethoven and Mozart with the admirable YMHA Chamber Symphony under Gerard Schwarz in May). A recital by Elisabeth Söderström last fall, with Martin Isepp at the piano, combined sensitive singing and personal warmth in exceptional measure; she knows how to sing songs, as few opera singers do.

Other such "stray" occasions are less obvious. A young baritone named William Parker also knows how to sing songs, and demonstrated it in Schubert's *Die schöne Müllerin* at Tully Hall in January; despite a memory slip, there was much elegant phrasing and tonal beauty in this performance. Joan Morris and William Bolcom present a different kind of song—the American popular song, ranging from Stephen Foster and James A. Bland to Leiber and Stoller (the subject of their latest record, Nonesuch H 71346)—with a combination of probity and vitality that keeps one thinking new thoughts about the boundaries between "popular" and "serious" music.

One could, of course, devote the entire season to discussing how people play Beethoven—but much of that is extremely predictable. I even thought I knew what to expect when the Concertgebouw Orchestra of Amsterdam, under their musical director Bernard Haitink, came to town (as they did also to Washington, Minneapolis and Ames, Iowa) to play the symphonies and concertos, with Vladimir Ashkenazy as piano soloist. After all, from Haitink's Beethoven recordings (with the London Philharmonic Orchestra), one knew of his sure structural sense, his meticulous craftsmanship. In the event, the Amsterdam orchestra's individual and collective virtuosity filled out Haitink's intentions with an uncommon range of color and articulate specificity, and around the entire occasion was that grand, comfortable feeling that one was in good hands, that these nine still exceptional experiences would unfold clearly and vividly. They did, though I was less happy in the concertos, where Ashkenazy, for all his tonal finish, tended unaccountably to rush the passagework.

My other exciting encounter with Beethoven this season was at Russell Sherman's sonata program at Grace Rainey Rogers Auditorium—breathtakingly fluent playing, at all times respectful of the music's substance but never fettered by traditional readings. Strongly fixed in the memory are such details as Sherman's potent distillation of the accelerating trill in the final variation of the E major Sonata, Op. 109—which is, unfortunately, the only one of the four sonatas on his program not included on his two Advent cassette recordings (E 1057 and E 1060); not yet available in disc form, these constitute an irresistible reason for acquiring cassette playback facilities.

Two of the late Benjamin Britten's last works were introduced to New York near the season's end. *Phaedra*, a cantata written for Janet Baker, was heard at a memorial concert in Carnegie Hall that also gave New York its first hearing in years of the *Spring Symphony*, the most ambitious and exhilarating of Britten's many "poetry anthologies set to music"; John Pritchard conducted, a bit squarely, but the soloists—Benita Valente, Jan DeGaetani, and the worn but still eloquent Peter Pears—were well in touch with the spirit of the work. On that occasion, *Phaedra* seemed to me out of focus; the important harpsichord part did not carry well in Carnegie, and Miss Baker rather oversold the vocal part—as she does not do on the excellent recording (London OS 26527, coupled with another ingenious and moving late work, the choral sequence *Sacred and Profane*). Between this score and the serene Third String Quartet (well played by the Amadeus Quartet on a program of the Chamber Music Society of Lincoln Center, broadcast on WNCN), it was clear that the tentative beginnings of Britten's post-illness period eventually led to substantial compositional achievements. (The Third Quartet will surely be recorded soon; several other, slighter late works will be found on London Treasury Series SR 33257.)

Also in Carnegie Hall, we heard the American première of Pierre Boulez's *Pli selon pli*, the most ambitious of his works, which he had declined to program during his tenure at the Philharmonic. This "portrait of Mallarmé" is a cornucopia of brilliant and subtle orchestral writing, surely one of the masterpieces of postwar composition. The performance, in which Arthur Weisberg led the (much augmented) Contemporary Chamber Ensemble, was much superior in clarity to the composer's own recording (Columbia M 30296). Phyllis Bryn-Julson was the rapt and flawless soprano soloist.

Much further off the beaten path was what I must describe as the best performance of a new opera I have encountered in some years, and one of the best new operas. This took place in Norfolk, Va. where four years ago there had been no opera at all. Thea Musgrave's *Mary Queen of Scots* represents a tangible advance over *The Voice of Ariadne* (heard last fall at the New York City Opera) in important respects. She wrote her own libretto this time,

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and most of it rang truer, and fit more comfortably to music, than the strained verbiage of the earlier work. The montage-like sequence of scenes dealt with the period between Mary's return from France and her exile to England; it played very well at the start, with well-developed encounters among the principals (Mary, her half-brother James Stuart, and her two husbands, Darnley and Bothwell), though later on the crowding together of crucial events—Darnley's murder, Bothwell's forcible courtship and the abdication—came to seem abrupt. The major miscalculation involved a fictitious Lord Gordon, a hardly credible stock figure whose only apparent function was to facilitate the libretto's simplification of history; at the end, when this bearded Cassandra turned from his dire lamentings to murder James Stuart, it seemed a gratuitous (as well as unhistorical) *coup de théâtre*.

The best thing about *Mary* is Musgrave's professionalism. She really knows how to write operatic continuity, and that's rare these days. Here and there the writing will turn briefly inert and dutiful, as if waiting for something new to grab hold of, but the sureness with which the big ballroom scene in the first act is built—a mixture of Renaissance dances, pastiche lute song, choral numbers, inset soliloquies, and climactic confrontation—bespeaks genuine command of the stage as well as of the musical materials. Set numbers such as that lute song, for David Riccio, which recurs in the second act just before his murder by Darnley, and Mary's lullaby for the future James I of England have distinctive mood and character, and Musgrave makes strong vocal lines for dramatic situations, supporting them rather than smothering them with the orchestra as the climaxes arrive.

It helped a lot, of course, to have fine singing. Ashley Putnnam (Mary) is a major talent, a strong, bright voice and a handsome, stage-wise actress, completely believable in the youthful part. Jake Gardner (James Stuart) presents such a romantic and riveting stage figure that his light voice is inevitably a disappointment, but he is an intelligent, musical, well-spoken singer. Also impressive were the two tenors, Jon Garrison (a suitably glamorous Darnley) and Barry Busse (a vigorous Bothwell). That Francesco Sorianello could not make much of Lord Gordon was not, I think, his fault. Peter Mark, the Virginia Opera Association's artistic director, conducted the expert and well-rehearsed band with a sure hand. David Farrar directed, on an ingenious and stylish set by Miguel Romero; I thought he put his foot wrong but once, at the very beginning, by allowing some ecclesiastical pantomime during the preludial measures that introduced material associated with Mary and James—this was a red herring. But the rest was most proficiently handled, and one was hardly ever conscious of the stage's severe space limitations. In artistic matters, there's no substitute for getting good people and giving them the resources to do their best; cheers to the Virginia Opera Association for doing just that! □

INDIGENOUS MUSIC/ Nat Hentoff

Toward the end of the first Presidential rites of jazz on the South Lawn of the White House this past June 18, a somewhat self-inflated guest came up to Stan Getz, tenor saxophonist, and asked: "When you're playing on an occasion like this, are you in any way sending a message to the President?" Getz, not hitherto known in jazz circles as a man of political passion, said, "If you transcribe my solo, it will read, 'Get rid of Brzezinski.' "

Except for this exchange, there was no other reported political message, sent or delivered, during the more than five hours of wide-ranging improvisation—from 95-year-old ragtime pianist Eubie Blake to such younger inventors of themselves as Ornette Coleman and Cecil Taylor. The President, who listened with diligence and seeming pleasure throughout the proceedings—even extending them for more than an hour beyond the scheduled closing time—was particularly fascinated by Taylor's intensely distilled piano solo. During it, the musician, though seated, seemed to be dancing, with enormous self-assurance, over burning coals. His music was simultaneously lyrical, complexly percussive, and so full of ideas that each one barely got out of the way of its successor.

Taylor, as is his peremptory custom, split instantly at the end of his set. Carter, to the shock of a stumbling Secret Service man, raced after the pianist, caught him under a magnolia tree, and engaged him in a lively conversation. When the President left to sit on the grass again and dig the next set. I asked Taylor what the Chief Executive had said. Cecil was surprised at the obviousness of the question: "What do you think he said? He said he'd never heard anything like it before—and where can he get the records?"*

It is hard to tell how much else of that afternoon Carter had never heard before because, he told the crowd of some 900, he'd started listening to jazz as a boy, hearing radio remotes from New Orleans. Then, as a young officer in the Navy, he'd stay up late in Greenwich Village jazz clubs. Later yet, Carter and his wife had spent "hours and hours" at Sunday afternoon jam sessions in New Orleans.

Perhaps it was because of the autobiographical note that the President sounded real rather than ceremonial when he said of the jazz day as a

*Cecil Taylor's most recent album, *Air Above Mountains* (*'buildings within'*) is a solo piano set, recorded in 1976 during an open-air festival at an Austrian castle, and released here on Inner City. It is unyieldingly absorbing—in terms of the inexorable logic of his structures, the kaleidoscopic swiftness of his melodic inventions, the dancelike leaps through pulsing time, and the oversize *feeling* with which all these elements are fused. Taylor once said that "to feel is perhaps the most terrifying thing in this society."

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whole: "This is the first time anything like this has happened at the White House and I can't understand why, because it's obvious that this music is as much a part of America's greatness as the White House itself or the Capitol building down the street."

Understandably, the musicians—of all ages, styles, and previous attitudes toward the Presidency—much enjoyed hearing this. And several of the more ceaselessly pragmatic speculated that maybe *now* the National Endowment of the Arts, always so generous toward white-defined-and-performed "high culture," would be less miserly in its attentions to this splendid indigenous art form.

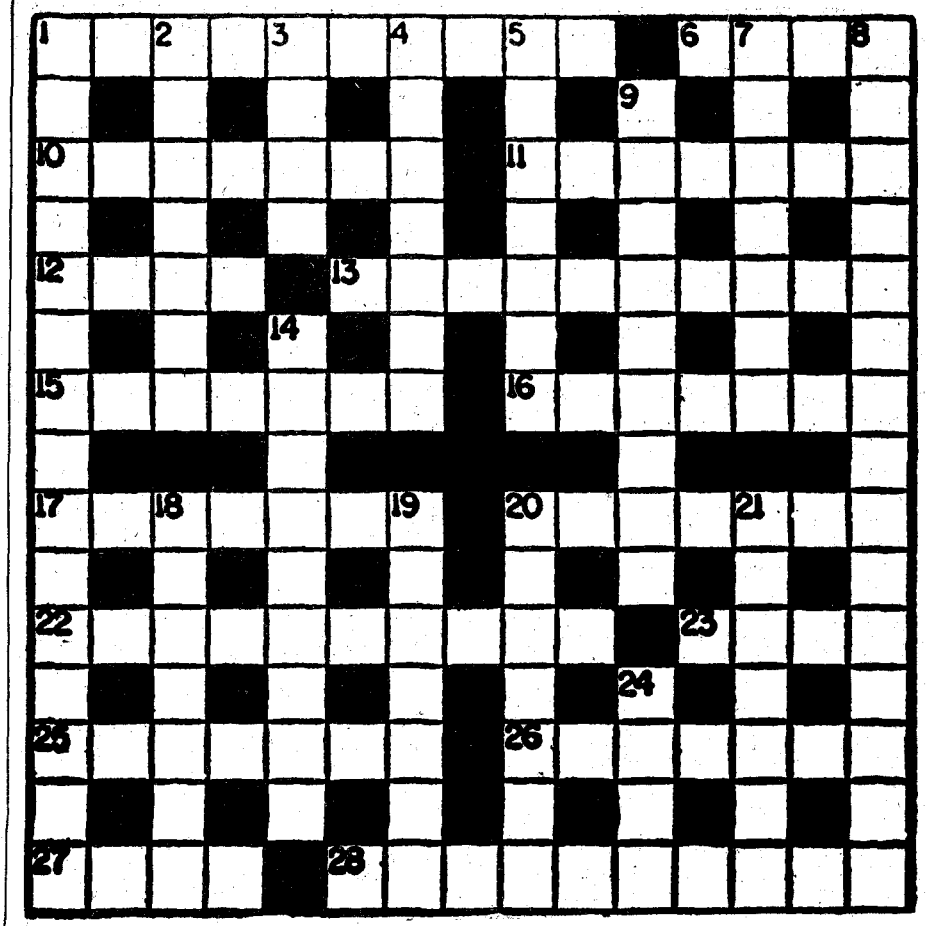
Meanwhile, in the indigenous audience at hand, as drummer-critic Stanley Crouch pointed out, there was an underwhelming number of blacks (not counting the musicians). One of them, Patricia Roberts Harris, Secretary of Housing and Urban Development, appeared much more bored than culturally elated. By contrast, Atty. Gen. Griffin Bell was an even more enthusiastic and insatiably curious listener than the President. And he too stayed to the very end. "There would appear to be no correlation between a taste for civil liberties and a taste for jazz," a somewhat confounded ACLU type declared at the end of the evening.

Up front, the concert, signalizing the twenty-fifth anniversary of the Newport Jazz Festival as well as Presidential anointment of the music, was far less uneven than most such all-star motleys. And there were moments—in the incandescent flights of Roy Eldridge, Benny Carter, Dexter Gordon, Zoot Sims and Dizzy Gillespie, among others—that will become part of jazz lore. If any one musician, along with Cecil Taylor, dominated the event, it was Max Roach reclaiming his place—after some years of teaching at the University of Massachusetts—as the most resourceful and fiercely disciplined drummer in all of jazz.

In passing, the President noted that "perhaps an element of racism" had at first prevented jazz from being "accepted in respectable circles." But the music, he continued, "has done as much as anything to break down those barriers." Later, Cecil Taylor gave the President a book—Robert Hemenway's new biography of the formidably exuberant black anthropologist-novelist-folklorist Zora Neale Hurston, who died broke in a Florida welfare home. Just to show that these hot licks don't all come from good times. □

Crossword Puzzle No. 1735

FRANK W. LEWIS



ACROSS

1 Something from *Thaïs* has one lost in thought. (10)
6 Find the plate here—at least, if it goes over, find something! (4)
10 Around the dome construction, tell time of indefinite nature. (7)
11 The battle type is bigger than the police. (7)
12 Takes in a sort of 27. (4)
13 A brief instant in a job of work in the supermarket, possibly. (5,5)
15 Neither fore nor aft of where a young officer should be? (7)
16 What some golfers do in the air? Carver might! (5,2)
17 A famous house has one story like this? No, the other way around! (7)
20 With Mr. Franklin aboard, by implication, it's a real blessing. (7)
22 How some clocks work too early in the morning, in rather frightening fashion. (10)
23 Perhaps the amount of money paid each year to one, for transportation. (4)
25 Not outgoing, as the field might be for a bunt? (7)
26 Possibly in range, or at least getting close. (7)
27 12 sometimes do, if too much of them —possibly coming from the east. (4)
28 Getting a superior position in this? (10)

DOWN

1 Engineering students sometimes have to —as some excellent workmen are. (6,9)
2 Put down with a clever saying, when caught in the act. (7)
3 Is Fundy so neat? (4)
4 They might if they're imitation bunnies bought here. (7)
5 Pretty things stashed away in sea monsters? (7)
7 Perhaps risen to some future location. (2,5)
8 How pen pals behave, one to another. (15)
9 Twenty such for game? (9)
14 The entire dinner, or just the bread might be. (5,4)
18 Praise in part of the theater is praise indeed! (7)
19 A number of workers or residents thereof? (7)
20 The rest of what things are in, when evening is over. (7)
21 Rank at the post? (7)
24 Paradoxically, you might in an emergency, on water. (4)

SOLUTION TO PUZZLE NO. 1734

ACROSS: 1 Recessed; 5 Tomcat; 10 Leveled; 11 Enounce; 12 Bacon; 13 In the pink; 14 Cadet; 16 Galactic; 19 Obscures; 22 Ninny; 24 Outspoken; 26 Icons; 28 Mobcaps; 29 Evening; 31 Sentient. DOWN: 1 Roll back; 2 Civic; 3 Splenetic; 4 Eddying; 6 Ozone; 7 Condition; 8 Tweaks; 9 Rental; 15 Debatable; 17 Continent; 18 Eyesight; 20 Rakish; 21 Sincere; 23 and 30 Room at the Top; 25 Piano; 27 Olive.

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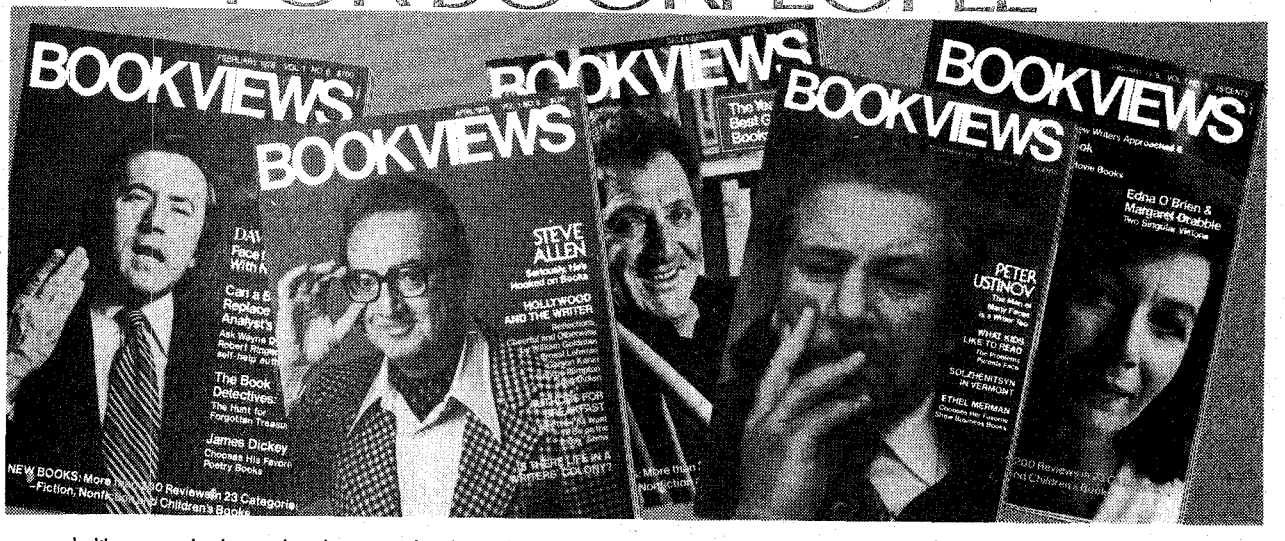

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